# TOC Quarters vs University DB

## AC

**FW**

**Every agent must recognize freedom as a necessary good.**

**Gewirth 84**

Alan Gewirth (UChi Prof) “THE ONTOLOGICAL BASIS OF NATURAL LAW: A CRITIQUE AND AN ALTERNATIVE.” 29 American Journal of Jurisprudence. 95. 1984. HeinOnline.

Let me briefly sketch the main line of argument that leads to this conclusion. As I have said, the argument is based on the generic features of human action. To begin with, every agent acts for purposes he [they] regards as good. Hence, he [they] must regard as necessary goods the freedom and well being that are the generic features and necessary conditions of his action and successful action in general. From this, **it follows that every agent logically must hold** or accept **that** he has **[they have] rights to these conditions.** For if he were to deny that he has these rights, then he would have to admit that it is permissible for other persons to remove from him the very conditions of freedom and well-being that, as an agent, he must have. But it is contradictory for him to hold both that he must have these conditions and also that he may not have them. Hence, on pain of self-contradiction, every agent must accept that he has rights to freedom and well-being. Moreover, every agent must further admit that all other agents also have those rights, since all other actual or prospective agents have the same general characteristics of agency on which he must ground his own right-claims.¶ What I am saying, then, is that every agent, simply by virtue of being an agent, must regard his freedom and well being as necessary goods and must hold that he and all other actual or prospective agents have rights to these necessary goods. **Hence, every agent, on pain of self-contradiction, must accept the** following **principle:** Act in accord with the generic rights of your recipients as well as of yourself. The generic rights are rights to the generic features of action, freedom, and well-being. I call this the Principle of Generic Consistency (PGC), because it combines the formal consideration of consistency with the material consideration of the generic features and rights of action

**However, the non-interference model of freedom allows institutional humiliation—non-domination solves**

**Pettit 97**

Philip Pettit (Laurence Rockefeller University Professor of Politics and Human Values at Princeton University). “Freedom with Honor: A Republican Ideal.” Spring 1997. http://www.princeton.edu/~ppettit/papers/FreedomwithHonor\_SocialResearch\_1997.pdf

And so to my claim about the constitutional consistency of freedom as noninterference with institutional humiliation. For the lesson of our reflections is that if the task is to promote negative liberty overall then the best constitutional arrangement for doing that may involve leaving some people with a certain power of interfering in the lives of others. But if some people have such a power of interfering with others then, cases of covert manipulation apart, it will generally be salient to relevant parties that they have that power: everyone is going to be interested, after all, in whether some people dominate others in this way and it will usually be evident from the allocation of resources that they do or do not exercise such domination (Pettit, 1997, ch. 2). And where it is salient to all that a dominates b, then it will equally be salient that if b does anything in the domain of a’s power, then b does that by the implicit leave—by the grace and favor—of a. There may not be much actual interference practiced in the relationship but it will still be the case, and it will still be saliently the case, that b acts and lives at the mercy of a. **With such** manifest **domination**, of course, **humiliation** routinely **follows**. The subordinate party has to look out for the moods and feelings of the dominating person. They have to make sure that they stay on their best side. They will naturally seek to ingratiate themselves with their superior, if that is possible, and they may even find themselves inclined to bow and scrape. The subordinate party will live in a position where their grounds for self-respect are severely compromised; they will be forced to accept a considerable measure of humiliation. I earlier associated the absence of humiliation with enjoying a voice and being given an ear. The connection between domination and humiliation comes out nicely in the loss of voice that domination entails. The dominated person is obliged to watch what they say, having an eye to what will please their dominators; they have to impress their dominators, wherever that is possible, and try to win a higher ranking in their opinion. But such a person will naturally be presumed to lack an independent voice, at least in the area where domination is relevant. They will fail to make the most basic claim on the attention of the more powerful, for they will easily be seen as attention-seekers: they will easily be seen in the way that adults often see precocious children. They may happen to receive attention but they will not command attention; **they may happen to receive respect but they will not command respect.**

**Social institutions shouldn’t humiliate people; honor is a basic human good. This takes out libertarian NCs.**

**Pettit 97**

Philip Pettit (Laurence Rockefeller University Professor of Politics and Human Values at Princeton University). “Freedom with Honor: A Republican Ideal.” Spring 1997. http://www.princeton.edu/~ppettit/papers/FreedomwithHonor\_SocialResearch\_1997.pdf

The decent society, as Avishai Margalit (1996) defines it for us, is one in which the **institutions do not humiliate people**. They do not deprive a person of honor. Specifically, they do not undermine or jeopardize a person’s reasons for self-respect. More specifically still, they do not signal the rejection of the person from the human commonwealth: they do not cast the person as less than fully adult of human. Decency is a crucial value in a society, because honor in the sense in question here is of the first importance to human beings. **To be deprived of honor is** to be cut out of conversation with your fellows. It is **to be denied a voice** or to be refused an ear: it is not to be allowed to talk or not to be treated as ever worth hearing (Pettit and Smith 1996). People differ, topic by topic, in how far they are thought worth listening to; they enjoy lower and higher grades of esteem. But to be deprived of honor is to be denied the possibility of ever figuring in the esteem stakes; it is to be refused the chance to play in the esteem-seeking game. According to a certain stoic attitude, the prospect of not having a conversational entrée to others is not so very bad. After all, it may be said, you can always provide your own company, you can always find consolation in the community of your soul with itself. But this attitude is shallow. Being a person is intimately tied up with enjoying a certain status in communion with others, and perhaps the best marker of the required status is that your voice is authorized by those others. Your reports and remarks, your complaints and your quips, your gossip and your jokes are recognized as a contribution to a shared conversation. You are not ignored, you are not ridiculed, and you are not dismissed. You are a somebody, not a nobody. Let us grant, then, that **honor is a basic human good** and that decency is a social value of the first importance; let us endorse the basic message of Avishai Margalit’s book. Starting from that assumption, what I wish to show is that the orthodox, liberal, and libertarian conceptualizaztion of freedom is consistent with a serious lack of decency and that this argues for returning to what I think of as an older, republican way of understanding freedom. If we are to make something important of the value of decency in our political thinking, as I believe we should, then we need to reappropriate the republican approach to politics that was sidelined by classical liberalism in the early nineteenth century.

**Non-domination is the only notion of freedom that can apply to state actors. Prefer civic republicanism—state interference promotes freedom if it ensures non-domination**

**Waltman 2**

Jerry Waltman (taught political science at the University of Southern Mississippi for 25 years; in 15 of those he participated in the British Studies Program.  He currently holds an endowed professorship in political science at Baylor University, where he teaches British politics and comparative public law.  He received his Ph.D. from Indiana University, and is the author of eight books and numerous articles in academic journals on both British and American politics.  In addition to his years spent on the British Studies Program, he has traveled and taught in the UK on many occasions). “Civic Republicanism, The Basic Income Guarantee, and the Living Wage.” USBIG Discussion Paper. No. 25, March 2002.

Civic republicanism's origins lie in the ancient world, in the political theory undergirding several notable Greek city-states and the Roman republic. (2) Thereafter, it lay dormant until resurrected in the Italian city-states of the Renaissance, and then by the "Commonwealth men" of seventeenth century England. From the latter, it was transported to the American colonies and flowered during the Revolutionary era and immediately afterward. While republican thinkers from these various periods parted company on several matters, their unifying focus was that the polity is a self-governing community of citizens. The aim of the civic republican polity is maintaining the liberty of its citizens. Since liberty cannot be achieved outside a community-a wild animal can be "free" but it cannot be said to have "liberty"-the individual citizen must be intimately connected to the community. He must believe that his **[their] interests are inseparable from** those of **the community**, and that the role of citizen is a natural part of life. The state can rely on its citizens, who after all are the state, to exercise civic virtue and to consider the needs of the community along with their own. The citizenry governs itself by the process of deliberation, a deliberation devoted to finding and pursuing the public interest. To this end, political institutions in a republic should evidence a certain balance and be rather slow acting, at least under ordinary circumstances. Representative democracy, which allows republics to be larger than city-states, is a method for the further protection of liberty. It is not, pointedly, an end in itself. Unlike liberal individualism, which posits no overriding end for the polity, civic republicanism stands emphatically on liberty as its central value. Liberty is taken to mean being free from domination. More formally, according to Richard Petit, a leading contemporary republican theorist, "One agent dominates another if and only if they have a certain power over that other, in particular a power of interference on an arbitrary basis." (3) Domination can therefore take either of two forms. In the first, one private individual holds power over another (dominium); in the second, it is the state which exercises the domination (imperium). Both are equally odious to republicanism. If I am dominated, I am not free, no matter what the source of the domination. To be a citizen is to be at all times and all places free of domination, since citizenship is synonymous with the enjoyment of liberty. Prohibiting dominium presupposes that no citizen can be the servant of another, for servanthood brings domination with it by its very nature. If you are my servant and I order you around, you are quite clearly being dominated. Nevertheless, it is important to note that **you are dominated even if I chose not to order you around** (for whatever reason). You still cannot look me in the eye as an equal, for we both know that "The Remains of the Day" is more realistic than Wooster and Jeeves. Not only may I alter my reserved role at any time without consulting you, but you will also be ever mindful of my ability to do so, and that cannot help but affect how you think, feel, and act. You and I are both aware that there may come a time when you will have to tread gingerly. Citizens of a republic simply cannot have such a relationship. As Petit said of civic republicans: The heights that they identified held out the prospect of a way of life within which none of them had to bow and scrape to others; they would each be capable of standing on their own two feet; they would each be able to look others squarely in the eye. (4) Or, as Walt Whitman succinctly described a citizen, "Neither a servant nor a master am I." (5) Governmental power can of course be a source of domination also, for the enormous power of the state is ever pregnant with the potential for domination. **There is, however, a critical difference** here. Whereas interference, real or potential, by one individual over another's choices is by its nature domination, governmental interference in one's affairs may or may not be. This is because liberty can only be made meaningful in a community, and the needs of the community will necessarily at times come into conflict with one or more individuals' autonomy, or at least with individuals' autonomy as they would define it. It is the community that makes liberty possible, and a citizen's freedom is inseparable from the interests and health of the community. As Blackstone noted, "**laws, when prudently framed, are** by no means subversive but rather **introductive of liberty**." (6)

Civic republicanism means your rights are as a citizen, not as a property owner

**Waltman 2** writes[[1]](#footnote-1)

This is where **civic republicanism and political theories based in neoclassical economics** (as well as those based on extreme versions of a right to privacy, it should be added to be fair) **clash.** Take Milton Friedman's argument that the right to buy and sell property at market prices is a fundamental liberty that should be guaranteed in the Constitution. (7) The civic republican would reply that, first, **while a citizen** certainly **has property rights** (and indeed that they are important rights), he/**she** also **has property in rights**. James Madison endorsed this sentiment in 1792 when he wrote that "as a man is said to have a right to his property, he may be equally said to have a property in his rights." Government, he went on, should "impartially secure to every man whatever is his own." (8) What he meant is that the liberty of the person, considered as a citizen, is the central concern. The **right of property refers not merely**, and certainly not exclusively, **to the right to possess** and accumulate **physical goods;** a person's **property includes** the possession and exercise of civil and **political liberties**. Moreover, our civic republican would continue, **economic life is not separable from political life**. It is the pursuit of the collective interest of the citizenry in preserving their liberty that is paramount. Thus, I cannot claim that the state can brook no interference in my right to sell my apples at price X or construct a high-rise office building on my real estate. Of course it may interfere with my doing these, and a host of other activities for that matter. Its only constraints are utilizing proper procedures in adopting the policy, non-arbitrariness in carrying it out, and the maintenance of contestability. **My rights are as a citizen, not as the owner of a lemonade stand**. Thomas Jefferson argued in a letter to a friend in 1816 that governments do not exist to protect property. They exist, rather, to promote access to property, which, he said, is why he changed John Locke's trilogy of "life, liberty, and property" to "life, liberty, and the pursuit of happiness." (9)

**Thus, the standard is non-domination, defined as minimizing the capacity for arbitrary interference. 3 more reasons.**

**First, nondomination is the primary moral good and turns other frameworks; it’s a pre-req to other values.**

**Pettit 99**

Pettit, Philip (Professor at Princeton). Republicanism: A Theory of Freedom and Government. Oxford University Press, USA (September 30, 1999).

The first of the further benefits becomes visible when we reflect on a salient way in which **arbitrary interference is worse than nonarbitrary**. To suffer the reality or expectation of arbitrary interference is to suffer an extra malaise over and beyond that of having your choices intentionally curtailed. It is to have to endure a high level of uncertainty, since the arbitrary basis on which the interference occurs means that there is no predicting when it will strike. Such uncertainty makes planning much more difficult than it would be under a corresponding prospect of non-arbitrary interference. And, of course, it is also likely to produce a high level of anxiety. Freedom as non-domination requires us to reduce the capacities for arbitrary interference to which a person is exposed, while freedom as non-interference requires us to minimize the person's expectation of interference as such. But this means that, while the non-domination ideal would tend to require conditions where certainty is high, the non-interference ideal is consistent with a great loss on this front. It is quite possible that the maximal non-interference possible for someone will be available under an arrangement where that person has to suffer much uncertainty. But it is hardly conceivable that the same is true for the maximal non-domination that they might achieve. Imagine that we have a choice between leaving employers with a lot of power over employees, or men with a lot of power over women, and using state interference to reduce such power. Maximizing overall non-interference is perfectly compatible with taking the first option. While we do not guard against interference by the stronger under that option, we may not think that it is very likely to occur; and because we do not guard against interference by the stronger, we will count the absence of state interference as a great boon. Thus maximizing overall non-interference is perfectly compatible with forcing the individual employee or the individual woman to have to live with much uncertainty. What is true at the overall or aggregate level may also hold at the individual level. For related considerations may mean that maximizing the individual's own non-interference would require exposing them to a high level of uncertainty. Perhaps the recourse to the law would be so interventionist in their own lives and so ineffective in stopping interference by others that it would mean more interference, not less. Perhaps the way to maximize the person's expected non-interference is to leave them in subjection to others, then, in a position where they suffer much uncertainty. Their expectation of non-interference would be at a maximum, but at the maximal point envisaged the interference to which they are exposed would be the arbitrary sort that induces uncertainty: the sort that occasions anxiety and makes planning difficult. The project of increasing a person's freedom as non-domination could not tolerate this uncertainty, because it would baulk at accepting any degree of subjection to another. Devotees of freedom as nondomination emphasize the advantage of their ideal in this respect when they say that the unfree person is exposed to the inconstant, uncertain will of another and consequently suffers anxiety and wretchedness. 'Having always some unknown evil to fear, though it should never come, he has no perfect enjoyment of himself, or of any of the blessings of life' (Priestley 1993: 35). Their assumption is that if we try to further someone's freedom as non-domination then we will remove the spectre of such uncertainty. Maybe the person has to live by the standing rule of a constitution and **a law**, a rule **that makes for a degree of coercion** in their lives. But they do not have to live under constant fear of unpredictable interference, and so they can organize their affairs on a systematic basis and with a large measure of tranquillity. The second benefit associated with freedom as non-domination, and not with freedom as non-interference, becomes visible when we reflect on another way in which arbitrary interference is worse than non-arbitrary. To suffer the reality or expectation of arbitrary interference is not only to have to endure a high level of uncertainty. It is also to have to keep a weather eye on the powerful, anticipating what they will expect of you and trying to please them, or anticipating where they will be and trying to stay out of their way; it is to have strategic deference and anticipation forced upon you at every point. You can never sail on, unconcerned, in the pursuit of your own affairs; you have to navigate an area that is mined on all sides with dangers. Advancing someone's freedom as non-domination means reducing other people's capacities for arbitrary interference in their lives, and will reduce their need for strategic deference or anticipation, as it will reduce the level of uncertainty with which they have to live. But advancing someone's freedom as non-interference is not guaranteed to have this effect. For it may very well be that the best way to maximize someone's expectation of non-interference is to rely in good part on their native wit and cunning: to get them to look after their own freedom by forcing them to develop and exercise strategies of placating and anticipating the powerful. A world in which strategic flattery and avoidance is rampant—a world in which women become adept at placating their men folk, for example, or at not crossing their paths—may represent the best prospect for keeping interference as such at a minimum. Having to practise strategic deference and anticipation, however, like having to live with uncertainty, is a serious cost. For the strategic disposition imposed requires the agent to curtail their own choices: to tug the forelock at appropriate moments and, when that promises not to be enough, to keep out of sight. Such enforced self-denial, of course, does not represent a form of interference, even of arbitrary interference, for interference has to be intentionally perpetrated by another; that, indeed, is why the cause of freedom as non-interference can be promoted by an arrangement involving a lot of strategic deference and anticipation. But nonetheless it is clearly bad that people should have to resort to denying themselves various choices in order to achieve non-interference. And it is a clear advantage of the ideal of freedom as non-domination that in targeting arbitrary interference as the enemy, and in seeking to reduce the capacities of others to interfere arbitrarily in anyone's affairs, it presents a picture of the free life in which the need for strategy is minimized. The Third benefit associated with freedom as non-domination but not with freedom as non-interference is one that I have already highlighted in arguing that the fact that someone enjoys non-domination is likely to become a matter of common knowledge and to generate associated subjective and inter-subjective benefits. While someone's freedom as non-interference may be at a maximum in a situation where they have to recognize that they are vulnerable to the whim of another, and have an inferior social status to that other, the enjoyment of freedom as non-domination goes with the possibility of their seeing themselves as non-vulnerable in that way and as possessed of a comparable social standing with the other. They can look the other in the eye; they do not have to bow and scrape. That two people enjoy the same freedom as non-interference, that they even enjoy the same expectation of such freedom, is consistent with one of them, and only one of them, having the power to interfere in the life of the other. Consistently with possessing the power to interfere, the more powerful may have no interest in interfering; this may be because of indifference or preoccupation or devotion: it may even be because the less powerful people are good at keeping them happy or at keeping out of their way. Thus the powerful person may be as unlikely to interfere with others as the less powerful. But even if both parties enjoy equal non-interference, and an equal expectation of non-interference, they are likely to develop a shared awareness of the asymmetry of power, and indeed an awareness shared with others in the community: this was a major theme of the last chapter. And once it is a matter of common awareness that one of them is powerful enough to be able to interfere more or less arbitrarily in the life of the other, then that is going to affect their relative status. It is going to be a matter of common knowledge that the one is weaker than the other, vulnerable to the other, and to that extent subordinate to the other. Why should I be forced to think of myself in this way, it may be asked, if the other person is really no more likely to interfere with me than I with them? The answer takes us back to a consideration already mentioned in the last chapter. Seeing an option as an improbable choice for an agent, even as a vanishingly improbable choice, is different from seeing it as a choice that is not accessible to the agent: seeing it as a choice that is not within the agent's power. Thus the fact that another person is unlikely to interfere with me, just because they happen to have no interest in interfering, is consistent with their retaining access to the option of interfering with me. Now it is the attribution of accessible choices, not the attribution of probable choices, that determines how I and others view a person and, in particular, whether we view them as someone on whom I depend for enjoying non-interference (Pettit and Smith 1996). And so it is quite possible for me to be forced to think of myself as subordinate to someone who is no more likely to interfere with me than I am to interfere with them. More generally, it is possible for this way of thinking to be established as a matter of common recognition, so that my status, my standing in public perception, becomes that of a subordinate. Advancing someone's freedom as non-domination is bound to mean reducing this sort of subordination, as it is bound to mean reducing the uncertainty with which they have to live, and the strategy to which they have to have recourse. For while it is possible to enjoy the highest degree of non-interference available in a situation where you are subordinate to another, every increase in your non-domination is going to mean decreasing the subordination to which you are exposed. After all, increasing your non-domination means reducing the capacity of others for interfering with you on an arbitrary basis, and that means reducing their access to such interference. To sum up these reflections, then, freedom as non-domination may seem to do less well than freedom as non-interference in servicing unrestricted choice; after all, it is opposed only to arbitrary interference—specifically, to others having the capacity for such interference—not to interference as such. But freedom as non-domination does much better in three other respects, all of them of intuitively great importance. It promises to do better in delivering a person from uncertainty, and from the associated anxiety and inability to plan; from the need to exercise strategy with the powerful, having to defer to them and anticipate their various moves; and from the subordination that goes with a common awareness that the person is exposed to the possibility of arbitrary interference by another: that there is another who can deploy such interference, even if they are not likely to do so. As against my line of argument so far, it may be said that those who espouse freedom as non-interference are not generally known for welcoming or even acknowledging the uncertainty, the strategy, and the subordination I have been documenting. How to explain this? The answer may be that those who espouse the ideal often take it for granted that it is best furthered by traditional, non-dominating institutions—say, by the institutions of the common law—that are most readily justified, as they were traditionally justified, by the desire to avoid arbitrariness. Thus what the people in question effectively embrace is not what they officially embrace: it is not freedom as noninterference, neat, but rather freedom as non-interference under the rule of such a common law.2 This constrained version of the non-interference ideal is close enough to the ideal of freedom as non-domination to make it seem that uncertainty, strategy, and subordination are ruled out. They are ruled out, it is true, in the forum where people's relations are effectively directed by the relevant legal injunctions. But the constrained ideal still falls short of freedom as non-domination, since it is consistent with allowing domination—and the attendant uncertainty, strategy, and subordination—within those spaces where the relevant legal injunction leaves people to other devices. Thus it is consistent, in a way that freedom as non-domination would not be, with domination occurring in the workplace or in the home or in any of a multitude of so-called private spaces. I do not think that anyone can be indifferent to the benefits that freedom as non-domination promises. To be able to live your life without uncertainty about the interference you will have to endure; to be able to live without having to stay on your toes in dealing with the powerful; and to be able to live without subordination to others: these are great and palpable goods and they make a powerful case for the instrumental attractions of freedom as non-domination. A primary good They make a case, indeed, not just for the instrumental attractions of the ideal but for its status, in John Rawls's (1971) phrase, as a primary good. A primary good is something that a person has instrumental reasons to want, no matter what else they want: something that promises results that are likely to appeal to them, no matter what they value and pursue. The considerations rehearsed so far show that advancing someone's freedom as non-domination is likely to help them escape from uncertainty, strategy, and subordination; certainly, it is more likely to do this than advancing their freedom as non-interference. But something stronger also holds true. Suppose we take steps to reduce a person's uncertainty about interference, to reduce their need for exercising a strategy of deference and anticipation with others, and to reduce the subordination associated with vulnerability. It is hard to see how we could take such steps without at the same time advancing their freedom as non-domination. Freedom as non-domination appears to be, not just a more or less sufficient instrument for promoting those effects, but a more or less necessarily associated factor. There is no promoting non-domination without promoting those effects; and there is no promoting those effects without promoting non-domination. This may not hold in every possible world, but it certainly seems to hold under plausible assumptions about how the actual world works. Given that freedom as non-domination is bound up in this way with the effects discussed, how could anyone fail to want it for themselves, or fail to recognize it as a value? Short of embracing some religiously or ideologically motivated doctrine of self-abasement, **people will** surely **find their ends easier of attainment to the extent that they enjoy non-domination.** Certainly they will find those ends easier of attainment if they are ends conceived and pursued under the pluralistic conditions that obtain in most developed democracies and, of course, in the international world at large. Freedom as non-domination is not just an instrumental good, then; it also enjoys the status, at least in relevant circumstances, of a primary good. This point is easily supported. For almost all the things that a person is likely to want, the pursuit of those things is going to be facilitated by their having an ability to make plans (Bratman 1987). But short of enjoying non-domination, the person's ability to make plans will be undermined by the sort of uncertainty we discussed. Hence, to the extent that it involves a reduction in uncertainty, non-domination has the firm attraction of a primary good.

**Second, nondomination comes first under util for state actors. It’s key to resolve the infeasibility of direct util calc.**

**Pettit 99**

Pettit, Philip (Professor at Princeton). Republicanism: A Theory of Freedom and Government. Oxford University Press, USA (September 30, 1999).

Republicanism is a consequentialist doctrine which assigns to government, in particular to governmental authorities, the task of promoting freedom as non-domination. But suppose that the authorities endorse this goal in a zealous, committed manner. Does that not raise the problem that they may seek in the name of the republican goal to breach the very forms that we, as system designers, think that the goal requires (Lyons 1982)? Does it not mean that they may often be motivated to take the law into their own hands—to dirty their hands (Coady 1993)—and to advance republican ends by non-republican means? It is often said that a utilitarian sheriff who is committed to promoting overall happiness might be required to frame an innocent person in order to avoid the worse consequences associated with a riot (McCloskey 1963). Is there not a parallel reason for thinking that republican officials who are committed to promoting overall nondomination will be subject to similar rule-breaking requirements? It would be a very serious problem if republicanism was morally infeasible in this way, for it would undermine the capacity of constitutional and institutional designers—ultimately it would undermine the capacity of a people—to plan for the effects they want to achieve. Whatever is to be said of the utilitarian goal of overall happiness, however, the republican goal of freedom as **non-domination does not raise a** serious **problem of moral infeasibility** (Braithwaite and Pettit 1990: 71-8). People enjoy freedom as non-domination to the extent that no other is in a position to interfere on an arbitrary basis in their lives. The zealous agents who break faith with an assigned brief in order to promote non-domination assume and achieve resources of arbitrary power, for they behave in a way that gives their own unchallenged judgement sway over others. And this assumption of resources affects, not just the non-domination of those affected in this or that case, but the non-domination of most of the society; zealous agents set themselves up over all, not just over some. If certain agents think that they can maximize non-domination by transgressing the obligations of their brief, then, they are almost certain to be mistaken. Whatever non-domination they hope to bring about by departing from their brief, it is unlikely to be greater than the massive domination they thereby perpetrate over the population in general. Against this, it may be objected that the sort of domination that official agents exercise over me and my like in virtue of covertly interfering with someone else is not itself harmful, so long as we remain unaware of the fact of being dominated. The agents may have reason to think, therefore, that it will be worth their while interfering if the chances of the interference becoming recognized are sufficiently small. I reply that no agent will ever be certain of not being caught out, and that the cost of being caught out is so enormous that, still, there is very unlikely to be a case for transgression sufficient to move a zealous agent. The cost of being caught out is that someone else will come to see that their lives are subject to the more or less arbitrary interference, not just of the agent in question, but of any other official agent: and, if someone else, then everyone else, since anyone who detects transgression is more than likely to make it public. What if the chance of being caught out is really very small indeed? Why shouldn't a zealous agent conclude that however great the cost of being apprehended, the improbability is such that he or she should bend the law in this case: bend the law, for example, as in covering up the offences of an important public personage, and seeking thereby to advance the interests of the country? There may be the very exceptional circumstances where zealotry is pardonable—pardonable and perhaps even commendable—but a very serious consideration argues against there being many. This is that the more unlikely it is that an agent will be apprehended, the clearer it will be to people at large that this case is an acid test of whether they are living under a proper rule of law or under the arbitrary sway of officials who put themselves, out of whatever high motives, above that law. Let apprehension be likely and people may well reckon that the errant official just nodded. Let apprehension be unlikely and they will all the more certainly think that the errant official typifies a general, dominating frame of mind. Short of catastrophic circumstances, then, there is unlikely to be any serious reason why a zealous agent should be tempted in the name of non-domination to break with the very rules of behaviour—the republican forms of government—that are designed to promote it. The considerations I have raised show that, given the power of official agents, and given their potential for domination, there is every reason why zealous agents should want to go out of their way to show people at large that there is no possibility of their taking the goal of nondomination into their own hands. There is every reason why they should **look for institutional means of making it** salient and credible that they are pre-committed to sticking with their brief, and to sticking with their brief even in cases where there is a prima facie case for zealous opportunism. There is every reason why they should want to make it **salient and credible that their hands are tied**: that they are agents with little or no independent discretion.

#### But, not all calculation is impossible—we can reach pragmatic conclusions

**Hardin 90** writes[[2]](#footnote-2)

**One** of the **cute**r **charge**s **against util**itarianism **is that** it is irrational in the following sense. **If I take the time to calculate** the consequences of various courses of action before me, **then** I will ipso facto have chosen the course of action to take, namely, to sit and calculate, because while I am calculating the other **courses of action will cease to be open to me. It should embarrass philosophers that they have ever taken this** objection **seriously. Parallel considerations in other realms are dismissed** with eminently good sense. Lord Devlin notes, “If the reasonable man ‘worked to rule’ by perusing to the point of comprehension every form he was handed, the commercial and administrative life of the country would creep **to** a standstill.” James March and Herbert Simon **escape** the quandary of **unending calculation** by noting that often we satisfice, **we do not maximize: we stop calculating** and considering **when we find a merely adequate choice** of action. **When**, in principle, **one cannot know what is** the **best** choice, **one can nevertheless be sure that** sitting and **calculating is not the best choice.** But, one may ask, How do you know that another ten minutes of calculation would not have produced a better choice? And one can only answer, You do not. At some point the quarrel begins to sound adolescent. It is ironic that **the point** of the quarrel **is almost never at issue in practice** (as Devlin implies, **we are** almost all **too reasonable** in practice **to bring the world to a standstill**) but only in the principled discussions of academics.

**Reject the burden of rejoinder; low risk is no risk and dropped arguments aren’t true**

**Cohn, 2013:**

Nate Cohn (Georgetown). Improving the Norms and Practices of Policy Debate. «November 24, 2013, 02:10:58 PM» http://www.cedadebate.org/forum/index.php/topic,5416.msg12020.html#msg12020

The fact that policy debate is wildly out of touch—the fact that we are “a bunch of white folks talking about nuclear war”—is a damning indictment of nearly every coach in this activity. It’s a serious indictment of the successful policy debate coaches, who have been content to continue a pedagogically unsound game, so long as they keep winning. It’s a serious indictment of policy debate’s discontents who chose to disengage. That’s not to say there hasn’t been any effort to challenge modern policy debate on its own terms—just that they’ve mainly come from the middle of the bracket and weren’t very successful, focusing on morality arguments and various “predictions bad” claims to outweigh. Judges were receptive to the sentiment that disads were unrealistic, but negative claims to specificity always triumphed over generic epistemological questions or arguments about why “predictions fail.” The affirmative rarely introduced substantive responses to the disadvantage, rarely read impact defense. All considered, the negative generally won a significant risk that the plan resulted in nuclear war. Once that was true, it was basically impossible to win that some moral obligation outweighed the (dare I say?) obligation to avoid a meaningful risk of extinction. There were other problems. Many of the small affirmatives were unstrategic—teams rarely had solvency deficits to generic counterplans. It was already basically impossible to win that some morality argument outweighed extinction; it was totally untenable to win that a moral obligation outweighed a meaningful risk of extinction; it made even less sense if the counterplan solved most of the morality argument. The combined effect was devastating: As these debates are currently argued and judged, I suspect that the negative would win my ballot more than 95 percent of the time in a debate between two teams of equal ability. But even if a “soft left” team did better—especially by making solvency deficits and responding to the specifics of the disadvantage—I still think they would struggle. They could compete at the highest levels, but, in most debates, judges would still assess a small, but meaningful risk of a large scale conflict, including nuclear war and extinction. The risk would be small, but the “magnitude” of the impact would often be enough to outweigh a higher probability, smaller impact. Or put differently: **policy debate** still **wouldn’t be replicating** a **real world policy** assessment, teams reading small affirmatives would still be at a real disadvantage with respect to reality. Why? Oddly, this is the unreasonable result of a reasonable part of debate: the burden of refutation or rejoinder, the responsibility of debaters to “beat” arguments. If I introduce an argument, it starts out at 100 percent—you then have to disprove it. That sounds like a pretty good idea in principle, right? Well, I think so too. But it’s really tough to refute something down to “zero” percent—a team would need to completely and totally refute an argument. That’s obviously tough to do, especially since the other team is usually going to have some decent arguments and pretty good cards defending each component of their disadvantage—even the ridiculous parts. So one of the most fundamental assumptions about debate all but ensures a meaningful risk of nearly any argument—even extremely low-probability, high magnitude impacts, sufficient to outweigh systemic impacts. There’s another even more subtle element of debate practice at play. Traditionally, the 2AC might introduce 8 or 9 cards against a disadvantage, like “non-unique, no-link, no-impact,” and then go for one and two. Yet in reality, **disadvantages are underpinned by** dozens or perhaps **hundreds of** discrete **assumptions,** each of which could be contested. By the end of the 2AR, only a handful are under scrutiny; the majority of the disadvantage is conceded, and it’s tough to bring the one or two scrutinized components down to “zero.” And then there’s a bad understanding of probability. If the affirmative questions four or five elements of the disadvantage, but the negative was still “clearly ahead” on all five elements, most judges would assess that the negative was “clearly ahead” on the disadvantage. In reality, the risk of the disadvantage has been reduced considerably. If there was, say, an 80 percent chance that immigration reform would pass, an 80 percent chance that political capital was key, an 80 percent chance that the plan drained a sufficient amount of capital, an 80 percent chance that immigration reform was necessary to prevent another recession, and an 80 percent chance that another recession would cause a nuclear war (lol), then there’s a 32 percent chance that the disadvantage caused nuclear war. I think these issues can be overcome. First, I think teams can deal with the “burden of refutation” by focusing on the “burden of proof,” which allows a team to mitigate an argument before directly contradicting its content. Here’s how I’d look at it: modern policy debate has assumed that arguments start out at “100 percent” until directly refuted. But few, if any, arguments are supported by evidence consistent with “100 percent.” Most cards don’t make definitive claims. Even when they do, they’re not supported by definitive evidence—and any reasonable person should assume there’s at least some uncertainty on matters other than few true facts, like 2+2=4. Take Georgetown’s immigration uniqueness evidence from Harvard. It says there “may be a window” for immigration. So, based on the negative’s evidence, what are the odds that immigration reform will pass? **Far less than 50 percent**, if you ask me. That’s not always true for every card in the 1NC, but sometimes it’s even worse—like the impact card, which is usually a long string of “coulds.” If you apply this very basic level of analysis to each element of a disadvantage, and correctly explain math (.4\*.4\*.4\*.4\*.4=.01024), the risk of the disadvantage starts at a very low level, even **before the affirmative offers a direct response.** Debaters should also argue that the negative hasn’t introduced any evidence at all to defend a long list of unmentioned elements in the “internal link chain.” The absence of evidence to defend the argument that, say, “recession causes depression,” may not eliminate the disadvantage, but it does raise uncertainty—and it doesn’t take too many additional sources of uncertainty to reduce the probability of the disadvantage to effectively **zero**—sort of the static, background noise of prediction.

**And third, Kantianism requires nondomination.**

**Ripstein 9**

Arthur Ripstein. Force and Freedom: Kant’s Legal and Political Philosophy. Harvard University Press. 2009.

The right to freedom as independence provides a model of interaction that reconciles the ability of separate persons to use their powers to pur- sue their own purposes. In so doing, it also provides a distinctive concepttion of the wrongs that interfere with this independence. **Wrongdoing takes the form of domination.** Both your right to independence and the violations of it can only be explicated by reference to the actions of others. Wrongs against your person are not outcomes that are bad for you which other people happen to cause. Unlike the familiar “harm principle” put forward by Mill, which focuses exclusively on out comes that can be characterized without reference to the acts that bring them about, the right to freedom focuses exclusively on the acts of others. It is not that somebody does something that causes something bad to happen to you; it is that somebody does something to you. The idea of freedom as nondomination has a distinguished history in political philosophy. Recent scholars have pointed out that Berlin’s dichotomy between negative and positive liberty leaves out a prominent idea of liberty, sometimes referred to as the “republican” or neo-Roman conception of liberty, according to which liberty consists in independence from others. These scholars argue that this conception was central to the political thought of the civic republicans of the Renaissance, who were centrally concerned with the dangers of despotism. On this reading, the early modern republicans did not object to despotism because it interfered with their negative or positive liberty (to use anachronistic terms they would not have recognized). A despot who was benevolent, or even prudent, might allow people, especially potentially powerful ones, opportunity to do what they wanted or be true to themselves. The objection was to the fact that it was up to the despot to decide, to his having the power, quite apart from the possibility that he would use it badly. Unless someone has a power, there is no danger of it being used badly, but the core concern of the civic republicans was the despot’s entitlement to use it, and the subjugation of his subjects that followed regardless of how it was used.18 [Footnote 18. See generally Philip **Pettit**, Republicanism: A Theory of Freedom and Government (Oxford: Oxford University Press, 1997), and Quentin Skinner, Liberty Before Liberalism (Cam- bridge: Cambridge University Press, 1998). In “A Third Concept of Liberty,” Proceedings of the British Academy 117 (2002): 239, Skinner points out that Berlin’s idea of positive liberty is not an idea of self-mastery but of mastering yourself.] Berlin is aware of this difference when he writes, “It is perfectly conceivable that a liberal-minded despot would allow his subjects a large mea sure of personal freedom.”19 Freedom as independence carries this same idea of independence further, to relations among citizens. It insists that everything that is wrong with being subject to the choice of a powerful ruler is also wrong with being subject to the choice of another private person. As a result, **it can explain the nature of wrongdoing even when no harm ensues.** One person is subject to another person’s choice; I use your means to advance purposes you have not set for yourself. Most familiar crimes are examples of one person interfering with the freedom of another by interfering with either her exercise of her powers or her ability to exercise them. They are small- scale versions of despotism or abuse of office.

**I defend the resolution as a general principle.**

**Theory’s an RVI on counter-interps because**

**(a) 1AR timeskew means I can’t cover theory and still have a fair shot on substance.**

**(b) no risk theory would give neg a free source of no risk offense which allows him to moot the AC.**

**(c) RVIs deter frivolous theory because it’s only strategic if it’s no risk.**

**2 impacts—**

**(a) It crowds-out substance which means even if fairness generally outweighs, zero education outweighs in this instance.**

**(b) kills critical thinking since it encourages evasion over clash.**

**(C) Empirically, frivolous theory is the single largest thing that makes LD look like a joke. We all know this.**

**C1**

**Contention 1 is Poverty**

**Living wage reduces poverty. Recent studies and economist consensus goes aff**

**Konczal 14**

Mike Konczal (fellow at the Roosevelt Institute. His work has appeared in The Nation, Slate, and The American Prospect). “7 Bipartisan Reasons to Raise the Minimum Wage.” Boston Review. March 3, 2014.

Some minimum wage advocates don’t care much about income inequality per se. Instead, they are focused on alleviating poverty. Poverty has significant consequences for human flourishing, with especially pronounced effects on children. A major mistake of the War on Poverty was its assumption that the economy would be capable of employing all people at generous wages as long as they had the right skills and as long as discriminatory obstacles were surmounted. Thus job training was a priority. However, during the ’70s, ’80s, and 2000s, wages at the bottom part of the income distribution fell, especially for men, even as the low-wage workforce became more educated. Education and technological advances alone could not solve poverty. **Recent research strongly indicates that raising the minimum wage reduces poverty.** Dube finds that a 10 percent hike in the minimum wage would reduce the number of people living in poverty by a modest but significant 2.4 percent. It also shrinks the poverty gap—how far people are below the poverty line—by 3.2 percent. And it reduces the poverty-squared gap, a measure of extreme poverty, by 9.6 percent. So it provides meaningful benefits for the poorest individuals. **Larger increases would offer even more impressive gains**. Raising the minimum wage to $10.10 would lift 4.6 million people out of poverty. It would also boost the incomes of those at the 10th percentile of the income distribution by $1,700 annually. That is a significant benefit for workers who have seen declining wages during the past forty years. In a review of the literature since the 1990s, Dube finds fifty-four estimates of the relationship between poverty and the minimum wage. Forty-eight of them show that a minimum wage reduces poverty. This reflects a **remarkable consensus** among economists. The effect of an increased minimum wage on poverty is real, and it would be positive.

**Dube et al.’s study is the most robust and generalizable**

**Schmitt 13**

John Schmitt (Senior Economist at the Center for Economic and Policy Research in Washington, D.C.) “Why Does the Minimum Wage Have No Discernible Effect on Employment?” Center for Economic and Policy Research. February 2013. http://www.cepr.net/documents/publications/min-wage-2013-02.pdf

Probably the most important and influential paper written on the minimum wage in the last decade was Dube, Lester, and Reich (2010)'s study,21 which offered a comprehensive reappraisal of both the new minimum wage research and its critics. The study was built around a key methodological innovation, which essentially generalized Card and Krueger's New Jersey study to make it nationally representative, and **identified a significant weakness in** much of the **earlier** minimum-wage **research** based on the analysis of state employment patterns, which had failed to control for regional differences in employment growth that were unrelated to the minimum wage. The most convincing critique of Card and Krueger's (1994, 2000) study of the increase in the New Jersey minimum wage (relative to Pennsylvania, where the minimum wage did not go up) was that it is difficult to generalize from a single case study. Even a perfect experiment will have random error that could affect the results in a single experiment. Imagine that the minimum wage had a small, but real, negative employment effect. Random errors will lead the results of separate tests to be distributed around this hypothetical negative employment effect, sometimes producing a larger disemployment effect than the "true" level, sometimes producing a smaller disemployment effect than what is "true" – even zero or positive measured disemployment effects. By this thinking, Card and Krueger's experiment could have been perfectly executed, but still represent only one result from a distribution of possible outcomes. Absent other information, the best estimate of the true effect of the minimum wage would be Card and Krueger's actual results, but we cannot convincingly rule out, based on that single case, that the effects were in truth larger or smaller than what was observed in the case of New Jersey in 1992. In recognition of this problem, Dube, Lester and Reich (2010) essentially replicated Card and Krueger's New Jersey-Pennsylvania experiment **thousands of times**, by comparing employment differences across contiguous U.S. counties with different levels of the minimum wage. The three economists carefully constructed a data set of restaurant employment in every quarter between 1990 and 2006 in the 1,381 counties in the United States for which data were available continuously over the full period.22 They also matched these employment data with the level of the federal or state minimum wage (whichever was higher) in the county in each quarter of each year in the sample. They then compared restaurant employment outcomes across a subset of 318 pairs of bordering counties where the prevailing minimum wage could differ, depending on the level of the federal and state minimum wage. Their methodology effectively generalizes the Card and Krueger New Jersey-Pennsylvania study, but with several advantages. First, the much larger number of cases allowed Dube, Lester, and Reich to look at a much larger distribution of employment outcomes than was possible in the single case of the 1992 increase in the New Jersey minimum wage. Second, since they followed counties over a 16-year period, the researchers were also able to test for the possibility of longer-term effects. Finally, because the relative minimum wage varied across counties over time, the minimum wage in a particular county could, at different points in time, be lower, identical to, and higher than the minimum wage in its pair, providing **substantially more** experimental **variation** than in the New Jersey-Pennsylvania (and many similar) studies. Using this large sample of border counties, and these statistical advantages over earlier research, Dube, Lester, and Reich "...find strong earnings effects and no employment effects of minimum wage increases."23

**Living wage creates a ripple effect that boosts wages of all low-wage workers**

**Harris and Kearney 14**

Benjamin H. Harris (Policy Director of The Hamilton Project, Fellow in Economic Studies at Brookings, and Deputy Director of the Retirement Security Project at Brookings) and Melissa S. Kearney (Kearney is the Director of the Hamilton Project; a Senior Fellow at the Brookings Institution; and a Professor in the Department of Economics at the University of Maryland, where she has been on the faculty since 2006. She is a Research Associate at the National Bureau of Economic Research and a Faculty Affiliate of the Lab for Economic Opportunities. Kearney's research focuses on issues of social policy, poverty, and inequality). “The “Ripple Effect” of a Minimum Wage Increase on American Workers.” Brookings Institution. 10 January 2014. http://www.brookings.edu/blogs/up-front/posts/2014/01/10-ripple-effect-of-increasing-the-minimum-wage-kearney-harris

In this month’s Hamilton Project economic analysis, we consider the likely magnitude of the effects of a minimum wage increase on the number and share of workers affected. Considering that near-minimum wage workers would also be affected, we find that an increase could raise the wages of up to 35 million workers—that’s 29.4 percent of the workforce. For the purpose of this analysis, we set aside the important issue of potential employment effects, which is another crucial element in the debate about an optimal minimum wage policy. We also continue to explore the nation’s “jobs gap,” or the number of jobs needed to return to pre-recession employment levels. The Ripple Effects of Minimum Wage Policy Although relatively few workers report wages exactly equal to (or below) the minimum wage, a much larger share of workers in the United States earns wages near the minimum wage. This holds true in the states that comply with the federal minimum wage, in addition to those states that have instituted their own higher minimum wage levels. An **increase in** the **minimum wage tends to have a “ripple effect”** on other workers earning wages near that threshold. This ripple effect occurs when a raise in the minimum wage increases the wage received by workers earning slightly above the minimum wage. This effect of the statutory minimum wage on wages paid at the low end of the wage distribution more generally is **well recognized in the academic literature**. Based on this recognition, we quantify the number of workers potentially affected by minimum wage policy using the assumption that workers earning up to 150 percent of the minimum wage would see a wage increase from a higher minimum wage. We hasten to note that a complete analysis of the net effects of a minimum wage increase would also have to account for potential negative employment effects. Our main goal of this empirical exercise is to dispel the notion that the minimum wage is not a relevant policy lever, which is based on the faulty premise that only a small number of workers would be affected. Using data from the Bureau of Labor Statistics, combined with information on the binding minimum wage in each state, we are able to calculate these shares. Just 2.6 percent of workers are paid exactly the minimum wage, but 29.4 percent of workers are paid wages that are below or equal to 150 percent of the minimum wage in their state. Furthermore, the hours worked by this group represent nearly one-quarter—24.7 percent—of hours worked, which indicates that a large share of the impacted group is working close to full time hours.

**Wage rates are more important for the poor than employment rates**

**Bernstein 14**

Jared Bernstein (senior fellow at the Center on Budget and Policy Priorities in Washington and a former chief economist to Vice President Joseph R. Biden). “The Impact of a Minimum-Wage Increase.” New York Times. 18 February 2014. http://economix.blogs.nytimes.com/2014/02/18/the-impact-of-a-minimum-wage-increase/?\_r=0

While those against the increase will highlight this employment loss finding as a rationale for their opposition, it is in fact entirely consistent with the view of most supporters of the increase: while the increase is expected to cause some job losses, **the number of workers who would get a raise far outweigh those displaced**: 97 percent to 98.5 percent of potentially affected workers would benefit from the proposal. The budget office estimates that because of the increase, 900,000 who are currently poor would move above the poverty threshold. That’s about 2 percent of the number it expects to be poor when the increase is phased in (45 million). Of the affected workers, 88 percent are adult (20 and older), 56 percent are female, and most work full time (i.e., 53 percent work 35 or more hours a week). **The incomes of most** families with **low-wage workers will increase** under the proposal. About 70 percent of low-wage workers live in families whose average incomes are projected to rise, from 2.8 percent for the poorest families to 0.4 percent for middle-income families.

**Non-domination requires reducing poverty. This is a prerequisite to the viability of civic republicanism**

**Waltman 2**

Jerry Waltman (taught political science at the University of Southern Mississippi for 25 years; in 15 of those he participated in the British Studies Program.  He currently holds an endowed professorship in political science at Baylor University, where he teaches British politics and comparative public law.  He received his Ph.D. from Indiana University, and is the author of eight books and numerous articles in academic journals on both British and American politics.  In addition to his years spent on the British Studies Program, he has traveled and taught in the UK on many occasions). “Civic Republicanism, The Basic Income Guarantee, and the Living Wage.” USBIG Discussion Paper. No. 25, March 2002.

In sum, to be a citizen one must have a certain basic level of economic well-being, and that level must be judged by the standards of each society. Without it, no person can be free, and when people are not free the republican polity disintegrates. Adrian Oldfield has summed it up this way: For activity of any kind, including that involved in the practice of citizenship, people need certain resources. Some of these have to do with . . . civil, political, and legal rights. Others have to do with economic and social resources. Without health, education, and **a reasonable living income**, for instance, individuals do not have the capacity to be effective agents in the world, and the possibilities of a practice of citizenship are thus foreclosed in advance. Such rights and resources have to be secured for citizens, for citizenship is an egalitarian practice." (25) Richard Petit put the same point more briefly. "If a republican state is committed to advancing the cause of freedom as non-domination among its citizens, then it must embrace a policy of promoting socioeconomic independence." (26) A good case can be made, of course, that poverty is an evil in itself and requires a moral response. Every major American religious tradition, in fact, includes that position, to one degree or another. Catholicism, mainstream Protestantism, evangelical Protestantism, and Judaism all concur that poverty is a blot on God's world and that there is a duty to respond, disagree though they may about the causes of poverty and the appropriateness of public versus private means of addressing it. (27) The point here is different. Poverty is an evil because of its political consequences. By stunting the mind and warping the spirit, it makes people unfit for republican citizenship. Since the freedom of all citizens is dependent on the health of the political system, which in turn is dependent on the continuing practice of citizenship, **the viability of a republican polity is** threatened, and ultimately **destroyed**, **by** the threat of **poverty**.

**C2**

**Contention 2 is Bargaining Power**

**Living wage solves bargaining power. That’s key to non-domination.**

**Konczal 14**

Mike Konczal (fellow at the Roosevelt Institute). “7 Bipartisan Reasons to Raise the Minimum Wage.” Boston Review. March 3rd, 2014. http://www.bostonreview.net/us/mike-konczal-seven-reasons-raise-minimum-wage

When low-wage workers protest at fast food restaurants, low wages are not necessarily their sole concern. The working conditions may be equally important. Between a lack of sick days, random shift scheduling, and working without pay, there is a host of problems and humiliations from which workers seek redress. **Civic republicanism presses against these practices**. Philip Pettit, the philosopher most associated with this strain of thinking, defines its goal in terms of “freedom as **non-domination**,**”** freedom “as a condition under which a person is more or less immune to interference on an arbitrary basis.” In what sense can people be considered free if their means of survival places them at the mercy of an erratic schedule, thereby preventing the formation of civic and communal ties? Surveys of New York City’s low-wage workers find that 84 percent of them are not paid for their entire workday. When bosses can flout labor contracts and arbitrarily impose working conditions in this way, workers lack the kind of freedom that civic republicans celebrate. **By making the labor market tighter through lower turnover and vacancies,** a higher minimum wage creates bargaining power for workers and will help to eliminate these kinds of domination.

**Bargaining power is key to solve income inequality**

**Gupta 15**

Sarita Gupta (executive director of Jobs with Justice). “Protect and Expand Workers’ Ability to Bargain.” Moyers and Company. January 20th, 2015. http://billmoyers.com/2015/01/20/protect-expand-workers-ability-bargain/

Greedy corporations have been on a decades-long bender to take advantage of working people — depressing wages, benefits and job standards, which has led to record inequality and poverty. At Jobs With Justice, we believe that **fighting poverty requires expanding** and protecting **the ability of workers to bargain with their employers** to demand higher wages, better working conditions and better living standards. As the nature of work changes, we look at collective bargaining through the union workplace campaign lens, but also through nontraditional forms, including legislative, policy, rulemaking and industry-wide interventions that put more money in workers’ pockets and improve standards and conditions for workers. Only through bargaining do workers have the power to directly confront the corporate actors behind poverty and inequality. Video From Jobs With Justice San Francisco: Fight for $15 and Just Hours Protest One example of this effort is our Retail Workers Bill of Rights campaign – led by Jobs With Justice San Francisco. Retail jobs are well understood to be some of the fastest growing and most poorly paid jobs in our economy, and an increasing number of people employed in this industry aren’t able to get the hours they need to earn enough to support their families. Working with the city’s Board of Supervisors, we pushed legislation to offer workers access to fairer, more predictable schedules. And in response to growing outrage over the turbulence families are experiencing due to a rise in inflexible and erratic schedules, community and labor advocates in a half dozen cities are planning to move similar reforms in 2015. Beyond winning better scheduling practices from employers, these campaigns – and others like them – have the potential to set workers up for more transformational fights, making bolder demands that increase onramps to collective bargaining and ultimately confront corporate power and fight poverty and inequality. Sign up now to join the fight for fair schedules and expanded bargaining for workers.

**Income inequality undermines civic republicanism**

**Waltman 2**

Jerry Waltman (taught political science at the University of Southern Mississippi for 25 years; in 15 of those he participated in the British Studies Program.  He currently holds an endowed professorship in political science at Baylor University, where he teaches British politics and comparative public law.  He received his Ph.D. from Indiana University, and is the author of eight books and numerous articles in academic journals on both British and American politics.  In addition to his years spent on the British Studies Program, he has traveled and taught in the UK on many occasions). “Civic Republicanism, The Basic Income Guarantee, and the Living Wage.” USBIG Discussion Paper. No. 25, March 2002.

Nevertheless, too much inequality in material possessions is an equally serious problem. Again, both the moral case and the economic efficiency case against too much inequality, powerful though they may be, must yield to the political case. Severe inequalities in material conditions, to put it straightforwardly, can destroy the very bases on which legal and political equality are built. This is true for three reasons. **First**, when citizens enjoy vastly different incomes, they begin to **lose the sense of seeing each other as equals**. When housing, clothes, vacations, food, and so forth differ enormously, people invariably become detached from those who are on the other side of the chasm. Their experiences cannot help but disconnect them, and they begin to see fellow citizens as somehow the "other," different from themselves, unapproachable and perhaps vexing. Everyone need not be able to afford an identical house, but the square footage and the acreage on which it sits should not be too far apart. If it is a matter of choice, of course-citizen A spends his discretionary income on a large house while citizen B enjoys expensive wines in a smaller house-that is altogether different. That very act of choice makes them similar. **Second**, too much economic inequality can lead to **skew**ed **political participation**. Any form of clientelism is obviously incompatible with republicanism. However, even far short of that, marked economic inequalities open up the possibility that some can, if not the guarantee that they will, buy ever larger megaphones to amplify their voices. In a healthy republic, every citizen's views need to be heard and considered, much as in a Quaker meeting. If one group of citizens can drown out others' voices, then a republic cannot be maintained. It is inevitable that economic power is going to lead to political power. And with the disparities that accompany a market economy, it is also inevitable that in a republic some are going to have more wherewithal to invest in the political debate than others. But that gap should be narrow rather than large. If we cannot eliminate megaphones, we can at least restrict their size. **Third**, vast economic **inequalities impair** the **public institutions** that are a vital component of republican life. Republics require more domains than the courtroom and the polling station where citizens meet as equals, unaffected by wealth and income. Public parks, for example, are much more than attractive and pleasant locales. They are places where citizens can see each other and interact as equals. When those with superior wealth erect their private enclaves to enjoy tennis, picnics, and the outdoors, a link in the citizenship chain is broken. The same is true for public transport and public schools. When people do not see their personal fate linked to public institutions, they lose interest in them. Why should, I, the wealthy begin to think, pay for these facilities which I do not use? When that happens a vital thread of a common citizenship is cut. Of even more central concern is the military. Citizen service in the military is the hallmark of a republic. When the army becomes largely a semi-mercenary force of those for whom it presents an attractive economic alternative, one of the central vestiges of citizenship is removed.

**Theory**

**1. Don’t vote on presumption or permissibility because human fallibility means there’s always a non-zero risk of offense. If you do presume, then presume aff to offset 7-4-6-3 time skew and the 8% neg bias this year**[[3]](#footnote-3) **and at the TOC specifically**[[4]](#footnote-4) **which impact turn his shells. TOC stats come first; they account for time skew, topic lit, and all other factors to determine net effect, and analytics get overstated by debaters to win rounds.**

**2. Neg burden is to win offense to a post-fiat advocacy. Offense-defense is key to fairness and real world education.**

**Nelson 8**

Adam F. Nelson, J.D.1. Towards a Comprehensive Theory of Lincoln-Douglas Debate. 2008.

And the truth-statement model of the resolution imposes an absolute burden of proof on the affirmative: if the resolution is a truth-claim, and the afﬁrmative has the burden of proving that claim, in so far as intuitively we tend to disbelieve truthclaims until we are persuaded otherwise, the afﬁrmative has the burden to prove that statement absolutely true. Indeed, one of the most common theory arguments in LD is conditionality, which argues it is inappropriate for the afﬁrmative to claim only proving the truth of part of the resolution is sufﬁcient to earn the ballot. Such a model of the resolution also gives the negative access to a range of strategies that many students, coaches, and judges ﬁnd ridiculous or even irrelevant to evaluation of the resolution. If the negative need only prevent the affirmative from proving the truth of the resolution, it is logically sufficient to negate to deny our ability to make truth-statements or to prove normative morality does not exist or to deny the reliability of human senses or reason. Yet, even though most coaches appear to endorse the truth-statement model of the resolution, they complain about the use of such negative strategies, even though they are a necessary consequence of that model. And, moreover, such strategies seem fundamentally unfair, as they provide the negative with **functionally inﬁnite ground**, as there are a nearly inﬁnite variety of such skeptical objections to normative claims, while continuing to bind the afﬁrmative to a much smaller range of options: advocacy of the resolution as a whole. Instead, it seems much more reasonable to treat the resolution as a way to equitably divide ground: the affirmative advocating the desirability of a world in which people adhere to the value judgment implied by the resolution and the negative advocating the desirability of a world in which people adhere to a value judgment mutually exclusive to that implied by the resolution. By making the issue one of desirability of competing world-views rather than of truth, the affirmative gains access to increased flexibility regarding how he or she chooses to defend that world, while the negative retains equal flexibility while being denied access to those skeptical arguments indicted above. Our ability to make normative claims is irrelevant to a discussion of the desirability of making two such claims. Unless there is some significant harm in making such statements, some offensive reason to reject making them that can be avoided by an advocacy mutually exclusive with that of the affirmative such objections are not a reason the negative world is more desirable, and therefore not a reason to negate. Note this is precisely how things have been done in policy debate for some time: a team that runs a kritik is expected to offer some impact of the mindset they are indicting and some alternative that would solve for that impact. A team that simply argued some universal, unavoidable, problem was bad and therefore a reason to negate would not be very successful. It is about time LD started treating such arguments the same way. Such a model of the resolution has additional benefits as well. First, it forces both debaters to offer offensive reasons to prefer their worldview, thereby further enforcing **a parallel burden structure.** This means debaters can no longer get away with arguing the resolution is by definition true of false. The “truth” of the particular vocabulary of the resolution is irrelevant to its desirability. Second, it is intuitive. When people evaluate the truth of ethical claims, they consider their implications in the real world. They ask themselves whether a world in which people live by that ethical rule is better than one in which they don’t. Such debates don’t happen solely in the abstract. We want to know how the various options affect us and the world we live in.

**3. Err aff against theory. Intervention’s inevitable in blippy theory debates. Gut checking minimizes it long term by reducing the number of debates resolved on blippy, dropped spikes. I’m reading a stock aff at the core of the lit, and it’s on the wiki.**

**4. Independently, voting on theory encourages more frivolous theory in future rounds. Any aff abuse must be weighed against this innate DA to theory, which sets a non-arbitrary brightline for reasonability.**

## 1AR

### Aggregation

#### 1. The conclusion does not follow from the premise. These arguments just prove util calc is hard and could likely be inaccurate, but that doesn’t mean util is false.

#### 2. A risk of utility is reason enough to take an action, even if we aren’t 100% certain of the consequences.

#### Infinite timeframe doesn’t paralyze util. Even if infinite future possibilities, the probability is infinitely small because they are infinitely far away and there are an infinite number of them.

#### Headaches example misunderstands util

**Parfit 78** writes[[5]](#footnote-5)

What does **Taurek [does] not understand**? A puzzling passage reads: “Suffering is not additive in this way. The discomfort of each of a large number of individuals experiencing a minor headache does not add up to anyone’s experiencing a migraine.” If “add up to” meant “be the same as,” this would be true. But it would not be relevant. **Those who believe that suffering is “additive” do not believe that many lesser pains might be the same thing as one greater pain. What they believe is that the lesser pains might together be as bad.**

### Error Constraint

**1. This is non-unique defense. There’s always a risk of the aff.**

**2. Lavin misunderstands logic**

**Kisilevsky 6**

Sari Kisilevsky (Visiting Assistant Professor in Department of Philosophy). “NORMATIVE FORCE AND THE POSSIBILITY OF ERROR: A REPLY TO DOUGLAS LAVIN.” March 2006.

My central worry **with Lavin’s objection** to the possibility of a perfectly rational agent is this. It is not clear that where an agent cannot but will in accordance with the practical law, we cannot properly say that she is not responsible or subject to it at all, and that she is like a mere machine. Consider, for example, the rules of theoretical reason. It might turn out that it is psychologically impossible for us to, say, believe p and not p (in the same thought), or, say, it might be impossible for us to fail to take modus ponens to be a valid rule of inference, and so on. If this were so, then we couldn't but follow these rules of rationality. Nonetheless, it seems to me that we would still say that we are judging well, or that we are rational when we deny contradictions or infer correctly. The mere fact that we cannot but judge in accordance with these rules does not seem to render them inapplicable in this context, nor does it exempt us from responsibility when we do. Nor, further, is it sufficient to conclude that we are acting as mere machines. To put the point slightly differently, we are happy to continue to say that we are properly subject to the norms of rationality even though the possibility of violating them is an open question; **nothing about** the **impossibility** of violating them seems to **impugn their normative status.**

**3. This links to the neg. Proves the converse false. Presume aff on timeskew.**

**4. Branse is a troll, and the on balance interp solves.**

**Nebel 14**

Jake Nebel (Oxford philosophy student, TOC ’09 semifinalist, hates plans). “Jake Nebel on Specifying “Just Governments.”” vBriefly. December 19th, 2014. http://vbriefly.com/2014/12/19/jake-nebel-on-specifying-just-governments/

One of the most trolly observations to make in a debate on this topic is that just governments do not exist. It strikes me as plausible that no actually existing government is just. But most debaters will rightly trust their linguistic intuitions (in this case, but not in others!) and assume that this point is irrelevant to the resolution. The question is: why is it irrelevant? If “just governments” gets an existential reading, then the point should be relevant. If there are no just governments, then it is not the case that there are some just governments that ought to require employers to pay a living wage. So the resolution is not true. Reading “just governments” as a generic bare plural, then, is key to avoiding the **trolly** observation as a knockdown negative argument (or a knockdown presumption trigger, if presupposition failure makes the resolution neither true nor false). One might object that not even the generic reading can avoid the problem. After all, if there are no just governments, then how could it be true that just governments in general ought to do anything? Some linguists have held that generics never presuppose the existence of the kind of thing in question. But others, such as von Fintel (1996) and Greenberg (2003), have endorsed a more modest point, which is still enough for my purposes. This point starts with the fact that the resolution states a rule—namely, that just governments require employers to pay a living wage. Consider the rule, Trespassers ought to be prosecuted. **We can affirm this rule even if there are no trespassers**. But consider next, Some trespassers ought to be prosecuted. This statement is not true if there are never any trespassers. The lesson is that normative generics do not presuppose the existence of members of the relevant kind. Since the resolution is a normative statement, it does not presuppose that there actually are any just governments.

**5. Just because a state is *in fact* just doesn’t mean it’s *necessarily* just or can’t make future errors any more than the term “living person” implies that someone will necessarily never die.**

### Enoch

**1. The AC framework slays this case because I’m the only one with meta-level framing. He relies on the non-interference model because he assumes that doing nothing is the default. He’s conceded 4 long cards saying that’s both incoherent and can’t apply to states; that’s Pettit. He’s conceded that under non-domination, the default must be non-arbitrary coercion, which is the aff; that’s Waltman.**

**2. We know for certain not everyone likes the squo, so it’s try or violate for the aff.**

**3. This is morally repugnant. It would prohibit punishing a murderer if they didn’t consent to prison.**

**4. It’s mis-cut. Enoch votes aff and thinks this case is so awful it should be rejected on face. Here’s the full article.**

**Enoch 9**

David Enoch. “On Estlund’s Democratic Authority.” 2009.

**\*\*\*[FULL TEXT OF ARTICLE]\*\*\***

1. Overview of the Book For a state to be legitimate is for it to be permissible for the state to issue and enforce its commands (mostly laws), and for this to be permissible “owing to the process by which they were produced” (2).1 For a state to have authority is for it to have the power to morally require or forbid actions through commands, or the power to create duties (2).2 It seems that a state’s being democratic—in somewhat like the way in which the democracies we are familiar with are democratic—has something to do with its having both authority and legitimacy. But what, exactly? There is, after all, nothing obvious about the relation between democracy on the one hand and legitimacy and authority on the other. One may think that consent has something to do with it. But this would be wrong, because most of those supposedly under the authority of the state haven’t consented to anything of relevance (9). Implicit consent, if it is too implicit, so that the agent may not realize she is consenting, is no substitute for real consent, and if it is more explicit than that then, again, hardly anyone has consented to the state’s authority, not even in democracies (9). And most hypothetical consent theories fall prey to their own difficulties. So consent theory of the typical kind cannot ground political legitimacy and authority. (A very atypical kind of consent will nevertheless eventually emerge victorious.) 35 © Iyyun • The Jerusalem Philosophical Quarterly 58 (January 2009): 35–48 1 David M. Estlund, Democratic Authority: A Philosophical Framework (Princeton: Princeton University Press, 2008). All references to page or chapter numbers below are to this book, unless otherwise stated. 2 If I understand him correctly, Estlund introduces these definitions as stipulations, and so I won’t dispute them below, even though I think that as attempts to capture our natural-language notions they are not obviously fully successful. 36 David Enoch A more thoroughly proceduralist account may be tempting, then. Perhaps it can be claimed that democratic decision procedures gain respectability for their results (for instance, in terms of legitimacy and authority) only because of intrinsic features of these procedures—say, their fairness, or their deliberative nature. But this won’t do, not just because of problems with the details of such views, but mostly because it is very hard to accept the claim that some intrinsic features of democratic procedures could render them sufficiently legitimate and authoritative, unless these procedures tended—at least somewhat—to generate the right decisions (chapters 4–5). After all, if they do not so tend, why not use the perfectly fair but presumably not legitimacy- and authority-conferring procedure of a coin-toss? It seems, then, that a necessary requirement for the legitimacy- and authority-conferring status of democratic decision-making mechanisms is that they tend to lead to correct decisions. Why not, then, go shamelessly instrumentalist? (This term is not Estlund’s.) Why not just state the true criteria for good decisions (like the true conception of political justice, the truth about the good life, etc.), and then argue for democracy by claiming that of all possible decision-making mechanisms it is the one that is in fact most likely to yield the decisions most in line with the truth of the relevant matters? The problem with shameless instrumentalism is that there is wide-ranging disagreement, indeed disagreement even among those whose opinions count here (like, perhaps, the reasonable) about the relevant substantive truths. And while such disagreement does not show that there is no relevant truth here—if anything, the nature of the disagreement counts, together with some other considerations, for the existence of relevant truth (chapter 2)—truth is not the only thing that matters here. Thinking that only truth matters here “would not explain the thought that even if the pope has a pipeline to god’s will, it does not follow that atheists may permissibly be coerced on the basis of justifications drawn from the Catholic doctrine” (5). What we need here is something along the lines of Rawls’s requirement in Political Liberalism to the effect that grounds for political action must be in reasonable consensus, they must be such that they could be justified to all reasonable citizens, whatever their (reasonable) comprehensive doctrines. Of course, perhaps Rawls was wrong about reasonableness here, and it’s not as if it’s completely clear what this qualification means. But he was right about the need for some acceptability requirement, and he was also right about including some On Estlund’s Democratic Authority 37 qualification here—after all, there is no reason to hold legitimacy hostage to the whims of the morally corrupt, or the irrational, or some such (and so doing would leave nothing as a legitimate ground for political action in modern pluralistic societies). Without committing ourselves to something more specific at this stage, we can say that shameless instrumentalism is ruled out by the qualified acceptability requirement (chapter 3). This very requirement also rules out epistocracy (30–36): We cannot let all decisions be made by the knowers of the good because even though there are truths here (at least in a minimal, deflationary sense), and quite plausibly there are people who are better at knowing them than others (because, well, there most clearly are people who are worse than others), still there is bound to be disagreement about who those are, even among the qualified. So epistocracy is ruled out by the qualified acceptability requirement. We want, then, to justify democracy by focusing on its tendency to lead to correct decisions. But our ability to rely on the correctness criteria here is restricted by the qualified acceptability requirement. So it’s tempting to go for a purely formal solution—perhaps we can show that democratic decision procedures will tend to yield correct results, whatever those are? You may think that this is so, because of the effects of Condorcet’s Jury Theorem, when applied to voting situations. But this won’t work, because contemporary voting situations do not have the features that Condorcet’s reasoning takes as given (for instance, probabilistic independence and individual competence, at least in the case of multi-option decisions) (chapter 12). And there are important disanalogies between democratic decision-making situations and contractualist choice situations (in terms of the motivations of the parties and so of the need for a veto power), so we can’t argue that the similarities between the two, together with the truth of a contractualist framework in the theory of justice, ensures that democratic procedures will yield decisions that approximate justice (chapter 13). The solution is different, then. We can show that democratic procedures are at least somewhat more likely than random procedures or other competing possible procedures at leading to correct decisions, where correctness is itself understood in qualifiedly acceptable terms. We can show this in two stages. First, we can note how there would be epistemic payoffs to a certain hypothetical ideal deliberation, where there’s enough time for all, access to the forum, only good-faith presentation of reasons, equal bargaining power, everyone recognizes a good reason when they see one, etc. (175–76). Then 38 David Enoch we can show that a real-world democratic procedure is likely to be close enough to the ideal one in its epistemic payoffs (chapter 10). In the ideal epistemic deliberation we show epistemic payoffs rather easily (chapter 9). This is where the insights of those thinking about deliberative democracy are helpful: If voters vote (at least also) on principle, drawing on their knowledge, experience, and so on, then the public discussion can pool their wisdom and experience, and is likely to yield better decisions. And we start the second stage with a set of “primary bads” (160–63)—things like famine and genocide, the badness of which no qualifiedly acceptable view will reject. We can then show that democracy will tend to lead to decisions that minimize primary bads. And we can then extrapolate (170–71)—a decision procedure that tends to get it right when it comes to primary bads will tend to get it right in general. Of course, this won’t show that this procedure will always get it right. And if you are among the knowers, the democratic decision won’t give you a strong reason to change your mind. But we don’t need any of these strong claims. We can settle for fairly modest advantages of democratic procedures in order to establish their authority and legitimacy (167–68), advantages that give even the knowers practical reasons to comply (even if not theoretical reasons to change their mind). And with this modest conclusion, the argument works. Now, perhaps voters will not vote on principle. But they can so vote, and they should. And we are, after all, doing normative political philosophy here. It is no constraint on a theory of this kind that people are likely to behave in the ways it claims they should. To think otherwise would be to fall victim to Utopophobia. When we want to engage in the details of the science of institutional design and engineering, we need to take into account, of course, details about people’s likely behavior. But this is not our project here. Here we are engaged in the more abstract parts of normative political philosophy. And here we should avoid utopophobia (chapter 14). Thus we get Estlund’s Epistemic Proceduralism (chapter 6, and throughout the book). Specific political decisions in a democracy—whether correct or incorrect—are legitimate because they are the outcomes of a democratic procedure, and that procedure itself is legitimate because it is likely—in a way that cannot be rejected by the qualifiedly acceptable—to lead to correct, that is, qualifiedly acceptable, decisions. The analogy with trial-by-jury is telling here (chapter 8). Surely, whatever other merits this procedure has, its normative status at least partly depends on its tendency to lead to correct On Estlund’s Democratic Authority 39 decisions. And the normative status of a specific jury verdict depends not on its correctness but rather (perhaps among other things) on the general epistemic virtues of this procedure. On Epistemic Proceduralism, then, the epistemic credentials of the democratic procedure, constrained as they are by the qualified acceptability requirement, establish—perhaps together with some other conditions—its legitimacy. But for authority—the state’s ability to create moral obligations with its laws, roughly—we need one more step. We know from discussions of consent that sometimes consent is null (say, under duress). In such cases, the normative situation is as if no consent has been given. However, on most accounts, non-consent is never null. But nothing justifies this asymmetry. In fact, we can think about cases where non-consent is null, cases where even though there was no consent, consent ought to have been given, or, as Estlund puts it, there is normative consent (chapter 7). In some of these cases, the normative situation is as if consent—real, good, genuine, non-null consent—has been given. A democratic state has authority because—given its epistemic and legitimacy credentials, and the humanitarian obligations to avoid all sorts of catastrophes—we all ought to consent to its authority, and so it has authority just as if all of us did in fact consent. This is a hypothetical consent theory, but a normative one. Hence its uniqueness. There is much more that is of philosophical value in Estlund’s rich book, both in its central themes (for instance, the emphasis on there being nothing obvious about democracy, but also on there being nothing obvious about the expertise model, as expertise simply does not entail authority (3)), and in some of its smaller details (like the small and extremely interesting observation about the main role of the criminal law not being punishment but rather final exoneration (141)). And I cannot hope to do justice here to all that is of value in the book, nor shall I try. I now proceed, then, to criticize some of the main themes of the book, as sketched above. 2. Avoiding Decision Fetishism Suppose that the political system in the country Get-It-Right gets right more of the decisions (holding importance constant, and perhaps by standards that pass the qualified acceptability requirement) than the political system in the country All-for-the-Best; but that the consequences of the political system in All-for-the-Best are on the whole better than those in Get-It-Right. This 40 David Enoch is surely possible: Right decisions tend to make things go better, but the rightness of the output of a procedure are certainly not the only feature of the procedure that can have such effects. Perhaps, for instance, the political system in All-for-the-Best gives its citizen a sense of participation, or even of dignity and autonomy, regardless (to an extent, at least) of the correctness of its decision; or perhaps it just pleases them to see the goings on in parliament, or whatever. Which system of government should we go for, the one in Get-It-Right, or the one in All-for-the-Best? If you’re a pure proceduralist (of the kind that argues that the justification of the relevant decision procedures derives only from the normative status of intrinsic features of that procedure), the answer should not seem clear to you. Perhaps I haven’t given you enough information about our two countries. But for someone like Estlund who rejects pure proceduralism, and who has the (quite healthy, I think) tendency to justify procedures (partly) by their consequences, wouldn’t it be a kind of fetish with decisions to go for Get-It-Right’s system rather than for that of All-for-the-Best? What, after all, is so special about decisions? Why should we care whether things turn for the best because of the correctness of the decision or because of some other feature of the decision-making mechanism (say, its aesthetic value)?3 I think we should avoid decision fetishism. And if so, it becomes clear that the epistemic justification of democracy is an instance of the good old instrumental justification of democracy, grounding its justification in the good consequences of a democratic government (compared to the alternatives). Furthermore, the epistemic justification of democracy is not even a privileged instance of instrumentalism, for—once we are clear on avoiding decision fetishism—on this view the epistemic credentials of democracy only matter for its justification because of their consequences. Of course, Estlund may argue that one way of showing that a decision procedure can have better effects is by showing that it will tend to lead to 3 A related worry arises with regard to Estlund’s claim that some transgressions from the conditions of the ideal speech situation should be allowed in democracies in order to remedy the power imbalance that influences the decision-making procedures (193). But why the restriction to just those transgressions that will remedy such procedural flaws? Why not allow transgressions whenever they have on the whole good—or at least qualifiedly acceptably good—consequences? Here too Estlund seems to me to flirt with decision fetishism. On Estlund’s Democratic Authority 41 better decisions, and if that can be shown, this surely counts strongly in favor of such a decision procedure. But this still means that the epistemological justification is a (perhaps particularly interesting) particular instance of the general instrumental justification, a point that will be important below. 3. Consequentialism Think of a consequentialist who shamelessly judges political decision-making mechanisms instrumentally (and so also, but not just, epistemically). How implausible would her view be? And how far would it be from Estlund’s? Estlund seems to think that such a view would be highly implausible, and— naturally—very far from his. I differ on both of these (with a major caveat regarding the latter, shortly to take center stage). It may be thought—and I think that Estlund does think—that consequentialists (though not only them) would be committed to what he calls a correctness theory of legitimacy (99), one that loses the gap between legitimacy and correctness. But of course, this is a gap we cannot do without: we think that often an incorrect decision (say, by a jury) can be legitimate and authoritative. This gap is something that a true theory should accommodate and explain, not deny. For this reason, then, it is important to stress that nothing commits the consequentialist to a correctness theory of legitimacy. To see this, think, first, of an indirect consequentialist—a rule utilitarian, for instance. A rule utilitarian can happily introduce the gap between legitimacy and correctness, just as she can in general opt for the action that is in accordance with the utility-maximizing rules, and not the one that actually maximizes utility (the ability to do that is, after all, the defining feature of indirect consequentialism). Indeed, we can think about an indirect consequentialist whose intermediate factor—analogous to that of rules in rule-utilitarianism—is precisely political decision procedures. Indirect consequentialists, then, can unproblematically avoid a commitment to a correctness theory of legitimacy. But, I now want to argue, a consequentialist need not be an indirect consequentialist in order to avoid such a troubling commitment. For even direct consequentialists distinguish between their direct criterion of rightness, and the justified decision procedures. With regard to the latter, they recommend that we adopt whatever decision procedures are such that our adopting them will maximize utility. And, of course, in our context—that 42 David Enoch of evaluating democracy and other political arrangements—we are talking about decision procedures. So even the direct consequentialist can introduce a gap between correctness and legitimacy: A decision is correct if it is the one that, roughly speaking, will maximize the good; and it is legitimate if it is, roughly speaking, the product of a political decision-making mechanism that is on the whole optimal compared to possible alternative procedures. So consequentialists—direct and indirect alike—can easily avoid a correctness theory of legitimacy.4 And notice that in the process of arguing for this claim nothing depended on the relevant consequentialist theory being nonstandard in any interesting sense: the argument is neutral with regard to the details of the relevant conception of the good, for instance. Pretty much any consequentialist theory I can think of can happily introduce the gap between correctness and legitimacy. I have to confess that there is nothing in this sketch of a consequentialist story that sounds implausible to me. Perhaps more interestingly, this sketched story sounds very similar to Estlund’s own story, which is also a two-staged one: Legitimacy on his account is distinct from correctness when it comes to a specific decision, but is closely related to a general tendency of the procedure to yield correct answers.5 Indeed, especially if our friendly consequentialist’s conception of the good includes something about the value 4 In the context of rejecting a correctness theory of legitimacy, it seems to me that Estlund lets himself shift between his stipulated meaning for “legitimate” and a more commonsensical one. On his official definition, legitimacy implies the moral permissibility of the state’s acting on the relevant decision. But it seems to me that if the state’s decision is incorrect, it is not permissible for the state to act on it. Of course, it may be permissible for other agents to act on it: Estlund’s example of the permissibility of acting on an incorrect jury ruling is of this latter kind, where it is permissible for one agent (the hangman, say) to act on the incorrect but legitimate judgment of another or others (the jury). No such example can establish the much less plausible claim, that the very same agent can permissibly act on a legitimate (in Estlund’s sense) but incorrect decision. This implausible claim gains plausibility, I think, from reading it not with Estlund’s stipulated meaning for “legitimacy” in mind, but rather with a more commonsensical one. I take it that the most important parts of Estlund’s discussion can be abstracted from this difficulty, though (if not in terms of Estlund’s legitimacy, perhaps in terms of authority instead). 5 The structural similarity between Estlund’s view and the consequentialist view sketched in the text is especially clear on pp. 149–50, where he discusses Simmons and the global/local model. On Estlund’s Democratic Authority 43 of autonomy (and why wouldn’t it?), she can also easily accommodate the intuition that there’s something wrong in subjecting atheists to the doctrines of the Catholic church even if the pope does have a pipeline to god’s will (a point to which I return below). Now, in a couple of quick paragraphs (164–65) Estlund explicitly discusses consequentialism, and how his account differs from consequentialist ones. One of the things he mentions here is that on his account governments are not permitted to do whatever will maximize the good. But we already know that a consequentialist can get something like this result too, if holding governments to non-consequentialist standards in fact maximizes the good, as it clearly may. The other reasons Estlund mentions why his account is not a consequentialist one all have to do with the qualified acceptability requirement. Consequentialists will opt for the decision procedure that will maximize the good, that is, what is really, truly, good. Disagreement will only enter their calculations when it is instrumentally relevant. (We can imagine consequentialists with a conception of the good that includes disagreement as some intrinsic bad, but this doesn’t seem to me to be a part of a promising conception of the good.) But Estlund thinks that we should opt for the decision procedure that will yield (roughly) the acceptable results. And the two kinds of results—those that are truly good, and those that are acceptable—may not, of course, coincide. I agree that this is a real difference between Estlund’s theory and the sketched consequentialist one (though officially, only regarding legitimacy; the qualified acceptability requirement is not, on Estlund’s account, a necessary condition for authority (134)). But this difference is not—I now want to argue—one that counts in favor of Estlund’s account. 4. The Qualified Acceptabilty Requirement The centrality of the qualified acceptability requirement to Estlund’s view cannot be overstated. He says, for instance: An epistemic approach to politics, morally constrained by a general acceptability requirement, generates a philosophically adequate and recognizably democratic basis for political authority. This, in the most basic terms, is the thesis of this book. (38) Now, I am going to proceed to reject the qualified acceptability requirement. Before doing that, though, I want to note that given Rawls’s influence, it 44 David Enoch is Estlund, not I, that is among the vast majority of contemporary political philosophers in the analytic tradition. Given this state of the literature, Estlund may be content to introduce the qualified acceptability requirement as an explicit premise of his argument for democracy, conditionalizing his conclusions accordingly.6 But I think that it is important to question this premise. Indeed, I think that the Rawlsian influence here is reason for concern about much of contemporary political philosophy. As against Estlund’s qualified acceptability requirement I am going to raise three objections: that it is not supported by argument; that the details of Estlund’s acceptability requirement are objectionably ad hoc; and that there are strong reasons to think that nothing like this requirement can be successfully defended. (It is only this last objection that straightforwardly applies more generally to the Rawlsian theme on which Estlund’s qualified acceptability requirement is a variation.) What, then, does the qualified acceptability requirement come to? The intuitive idea is this: “I defend a certain sort of necessary condition on the legitimate exercise of political power: that it be justified in terms acceptable to all qualified points of view” (41). But what exactly does “justified in terms acceptable to all qualified points of view” mean? There is a worry that the acceptability requirement could be empty. It may be argued, for instance that there’s a sense in which any justification is acceptable in this way, because of some general accessibility constraint on normative truths, like the following, from Raz: “Justifications are in principle publicly available.”7 I’m assuming, then, that Estlund opts for a more robust understanding of the justifiable-to-all requirement—perhaps, for instance, one according to which it says, roughly, that the exercise of political power should be justified in terms all qualified persons can accept without changing their minds about their central beliefs, beliefs it would be unreasonable to require that they change.8 6 Though nothing like this line of thought is mentioned in the book, Estlund hinted at it in discussion. 7 Joseph Raz, “Disagreement in Politics,” American Journal of Jurisprudence 43 (1998): 25–52, at 37. 8 This way of putting things makes explicit the relation to Rawls’s discussion of the burdens of judgment, which play a star role in one of his accounts of the reasonable; see John Rawls, Political Liberalism (New York: Columbia University Press, 1993), 54–58. On Estlund’s Democratic Authority 45 Notice that the qualified acceptability requirement is an instance of what Joseph Raz calls (in a different context) a doctrine of restraint.9 It disqualifies as politically illegitimate some reasons—those that are not justifiable to all qualified persons—without denying that they are good reasons. This is even clearer given Estlund’s own commitment to truth in these matters. Given that there is an acceptance-independent truth in the relevant matters, and assuming that the qualified acceptability is not vacuous, it follows that sometimes it will rule out relying politically on some reasons, even though they are good ones, that is, even though they are reasons that do count in favor of whatever action it is that they are reasons for. Now, this way of putting things may sound paradoxical, but actually there’s nothing necessarily paradoxical about doctrines of restraint: sometimes we have reasons not to act on what we acknowledge are good reasons.10 And in institutional settings it is especially clear that this is so. My point here, rather, is that given the nature of the qualified acceptability requirement as a doctrine of restraint in this sense, it is clear that it has to be supported by rather strong arguments if we are to accept it. In other words, if we are going to be justified in ruling out some good reasons, there had better be very good reasons to do so. Despite the feeling one can get from browsing through the contemporary literature on these issues, then, there is nothing self-evident about anything like the qualified acceptability requirement. It is badly in need of argumentative support. Thus, if anything in the vicinity here should have the status of the default-justified view—one that we should hold to unless strong arguments support an opposing view—it is the rejection of the qualified acceptability requirement, not its acceptance. What arguments, then, does Estlund offer for his qualified acceptability requirement? Not many, I’m afraid. He spends most of the relevant part of chapter 3 arguing against objections (over-inclusion and over-exclusion), rightly noting that it would be crazy to go for an unqualified acceptability requirement. But very little positive support is offered for the acceptability requirement. What does most of the work here are examples like the one already cited: Alternative approaches “would not explain the thought that 9 Joseph Raz, The Morality of Freedom (Oxford: Oxford University Press, 1986), 110. 10 For Raz’s defense of exclusionary reasons, see, for instance, The Authority of Law (Oxford: Clarendon Press, 1979), part 1. 46 David Enoch even if the pope has a pipeline to god’s will, it does not follow that atheists may permissibly be coerced on the basis of justifications drawn from the Catholic doctrine” (5). But this is not good enough, because—as we’ve already seen—going for an acceptability requirement is not the only way of accommodating the desirable result here. So much, then, for my first critical point, namely, that Estlund doesn’t give us much by way of argumentative support for his acceptability requirement, which is a surprising thesis (to those of us whose thoughts are not too contaminated by Political Liberalism) and is badly in need of such support. My second critical point here has to do with the details of the qualification which is a part of Estlund’s qualified acceptability requirement. And here, there is something very appealing—and honest—about Estlund’s strategy: He doesn’t want to commit to Rawls’s qualification (namely, that in terms of the reasonable), or indeed to any other. Rather, he rightly notes that there must be some qualification, uses “qualified” as a place holder, and fills in only the details he needs to fill in from time to time to make the resulting view plausible. Here are some of the constraints we get in the book on the content of the qualification: ● Any view that rejects democracy itself (perhaps as a default position) is unqualified (37–38). ● “One feature that a person must have in order to count as qualified is to accept the acceptance criterion including its correct account of qualified people” (61). ● There can be no qualified disagreement that the juristic system will be better than the anarchic one in Estlund’s imagined “Prejuria” (139). ● No one among the qualified will reject the rationality of modest extrapolation of the kind we find in science, and its application to the move from primary bads to general performance (171). ● No one among the qualified will deny that some specific kind of education can make one better at making political decisions (212). One could worry about the details here. In particular, the second condition above—about whose necessity for the theory Estlund is clearly right— seems to imply that only Rawlsians count as qualified, a result many may find implausible (and some even quite disturbing). Instead of doing that, though, let me emphasize what I take to be the main worry here, and that is that this is all terribly ad hoc. We have a theory; then, whenever an On Estlund’s Democratic Authority 47 objection comes up, we tweak with the qualification on the acceptability requirement in a way that will avoid the objection.11 Because there are no independent restrictions on the qualification—because Estlund doesn’t offer a theory of the reasonable, or some such—any tweaking can be used, and so just about any objection can be avoided. But then Estlund’s procedure here is similar to the introduction of an explicit exception in one’s theory whenever a counterexample is presented. It’s a way of saving the theory from counterexamples, but at the price of making it objectionably ad hoc, losing touch with the philosophical motivations underlying it. And indeed, one can think of each of the hints listed above as to the content of the qualification as an objection silenced by such ad hoc tweaking. Note that the problem here is not that of relying on our pre-theoretic judgments or intuitions in trying to fine-tune our relevant normative theory. I have no quarrel with this methodology, suitably employed. Rather, the problem is that of fine-tuning our theory according to counterexamples in ways that deprive the theory of whatever philosophical rationales motivated it in the first place. My second point, then, is that without a theory of the qualification— one that should itself be philosophically motivated—Estlund’s use of the qualification seems objectionably ad hoc. My third point is that no such theory is likely to emerge. Let’s grant Estlund that there is something objectionable about subjecting atheists to the doctrines of the Catholic church even if the pope has a pipeline to god’s will. I take it that whatever is objectionable here is objectionable because the relevant atheists have certain normatively relevant features, features that make it wrong to subject them to such treatment. They are, say, agents; they are autonomous; they are free; they are rational; they have desires, and preference, and sometimes even life-plans; they hold comprehensive conceptions; they have dignity; they feel pain, including the pain of humiliation; or something along these lines. But, of course, whichever feature or features we focus on here, (at least some) people on the other side of the qualified–unqualified line, or perhaps the unreasonable, also share. And the characterization of the controversies Estlund doesn’t want politics to enter are shared by those he does want it to enter (like, say, the one about Estlund’s theory). So the intuitive rationale offered for the acceptability 11 Estlund comes very close to describing his strategy in these explicit terms (286, note 3). 48 David Enoch requirement applies equally well to the qualified and the unqualified. And I can’t think of a plausible rationale for which this isn’t true. If there is none, then the qualification is unmotivated.12 Of course, in a sense it is motivated. For **we know that an unqualified** acceptability **requirement is crazy, as it would hold all** grounds for **political action hostage to** the actual **acceptance by all**, and so would probably render the set of legitimate grounds for political action null. But this is not good enough. For if an unqualified acceptability requirement is a non-starter (and it is), and if the only plausible rationale for an acceptability requirement is a rationale for an unqualified acceptability requirement, what follows is simply that we should reject all versions of the accessibility requirement. And indeed, this is what I suggest that we do.

**5. Shameless Instrumentalism Vindicated**

I have argued, then, that we should avoid decision fetishism and go instrumentalist more broadly; that therefore the only thing that prevents Estlund’s view from being pretty much a terminological variant of a straightforward consequentialist account of democratic authority and legitimacy is the qualified acceptability requirement; and that we should reject the qualified acceptability requirement. If all of this is true, it seems to me that **we are left with the shameless instrumentalist account** of democratic authority and legitimacy, which—as the discussion of consequentialism showed—can be nuanced and intricate, indeed very close to Estlund’s own, shameless though it is. And I think this may very well be the right thing to say.

**5. He’s dropped that non-domination is a pre-req to everything anyone values, which means I meet the burden; that’s Pettit 99.**

**6. It can’t apply to the topic because a state that took no actions wouldn’t exist. It would just be people in the state of nature.**

### Levinas

#### Pettit is a prereq to Levinas

**Ferrarese, 2009:**

(Gabba-Gabba, We Acceept You, One Of Us”: Vulnerability And Power In The Relationship Of Recognition. Constellations. Vol. 16, Issue 4, Pages 604-614. December 2009. Estelle Ferrarese, Faculty Of Social Sciences AT The University of Strasbourg)

From the perspective of an (often internal) critique of political liberalism, some schools of thought in political theory have, in recent years, argued for an alternative concept of the subject founded on a distinct social ontology, as opposed to the figure of a rational and sovereign, always-already autonomous subject. This has given new prominence to the theme of vulnerability. One finds this theme in theories of “care,” which insist on having concern for the other in his vulnerability, his intrinsic dependence and his needs.1 The idea of vulnerability can also be found among authors who attempt to found their theories of justice on networks of dependence and interdependence in which subjects find themselves, as in the example of Iris Marion Young. From a different perspective, Martha Nussbaum regards emotions as morally relevant because “they are judgments in which we acknowledge our neediness and incompleteness before those elements that we do not fully control.”2 And Emmanuel **Levinas writes primarily about the absolute nudity of the other's face that appeals for my help and assistance.** Finally, the idea of **vulnerability has also been regarded as a strong moral argument** (as questionable as this can be) against cultural relativism, by offering an ontological argument for universalistic theories of rights: all human beings feel pain, and have the capacity to recognize pain in others.3 Contemporary theories of recognition can be considered as participating in this movement to rehabilitate the idea of vulnerability, insofar as they refer to – usually with the intention of reformulating Hegel's struggle for recognition – George Herbert Mead's work, Mind, Self and Society from the Standpoint of a Social Behaviorist, according to which consciousness, “far from being a precondition to the social act … is preconditioned by this very act.4” The self can only develop in a process of interaction: when a self does appear, it always involves an experience of another. Accordingly, for Charles Taylor, Jürgen Habermas, Ernst Tugendhat and Axel Honneth among others, individuality is constituted both through intersubjective recognition and through one's self-understanding as mediated by intersubjectivity. Hence, the need for the other's recognition experienced by each of us and our vulnerability to its possible denial. Habermas for instance speaks of “extreme vulnerability” as a central aspect of discourse ethics: “unless the subject externalizes in interpersonal relations through language, he is unable to form that inner center that is his personal identity. This explains the almost constitutional insecurity and chronic fragility of personal identity – an insecurity that is antecedent to cruder threats to the integrity of life and limb.”5 It follows with this type of premise that these theories of recognition place us before the fact that personal selves are always available for harming, recalling man's physical vulnerability – i.e. the fact that bodies are always available for wounding. This is clearly exposed in the following well-known passage of Charles Taylor's “Politics of Recognition”: “non-recognition or misrecognition … can be a form of oppression, imprisoning someone in a false, distorted, reduced mode of being. Beyond a simple lack of respect, it can inflict a grievous wound, saddling people with crippling self-hatred. Due recognition is not just a courtesy but a vital human need.”6 In Axel Honneth's words, “because the normative self-image of each and every individual human being … is dependent on the possibility of being continually backed up by others, the experience of being disrespected carries with it the danger of an injury that can bring the identity of the person as a whole to the point of collapse.”7 More specifically, at the core of Hegelian theories of recognition is the idea that not being recognized means being unable to maintain a practical relation-to-self; autonomy is regarded as the horizon of recognition. Current Hegelian theories of recognition then draw moral consequences from the constitutional vulnerability they assume. Vulnerability implies more than susceptibility to certain sorts of harm; it implies that harm is avoidable. Hence the possibility of advocating a duty to protect the vulnerable, a duty to prevent harm from occurring, particularly in the form of an individual or a collective “special responsibility,” entailed by the peculiar vulnerability of someone else to our actions and choices, as advocated by Robert Goodin in his book Protecting the Vulnerable.8 Insofar as Honneth's theory relies on the idea of deeply rooted expectations of recognition directed toward multiple others who consequently bear the burden of recognition, it assumes such a duty, at least for the sphere of rights and the sphere of social esteem: “Built into the structure of human interaction there is a normative expectation that one will meet with the recognition of others, or at least an implicit assumption that one will be given positive consideration in the plans of others.”9 For his part, Habermas posits the responsibility generated by this vulnerability in terms of an imperative of solidarity. Beyond the intersubjective and/or social level and the question of responsibility, the elucidation of this principle of vulnerability on a political level appears considerably more problematic. By insisting on the vulnerability of the agent, whose access to autonomy is dependent on intersubjective consideration, Hegelian theories of recognition invite us, although often without explicitly assuming so, to envision a demand for the preservation of personal integrity in terms similar to the preservation of physical integrity, which, at least since Hobbes, has been presented as the primary function of political institutions.10 The transposition of this idea of vulnerability to the political sphere then generally takes on two different forms. On the one hand, vulnerability provides the possibility of founding an institutional basis for the principle of a right to conditions for a positive relationship to self, a right that is just as fundamental as the right to physical integrity. This is notably expressed by the idea of a shield of rights that takes different forms, conceived as either the instrument of individual protection (Honneth) or collective protection (Taylor), limited to cases where weakness is exposed to a force that is excessive (Fraser),11 or extended to guarantee an equal recognition for all (Tully). On the other hand, the politics of recognition is generally considered a series of struggles to impose this right to conditions for a positive relationship to self, to have it respected, and/or to extend the interpretation of its normative content. Hegelian theories of recognition seem to argue that we need to broaden the concept of justice, but such a conception of justice would not, a priori, enable us to carry out a rational deduction of the institutions required for a perfectly just society, like the deduction Rawls sought to make in his Theory of Justice. This concept of justice would be a tool of social criticism, justifying the legitimacy of social transformations to reduce misrecognitions within a real society. The political task would then consist in a pragmatic critique of institutions so as to tend towards the elimination of every denial of recognition or misrecognition through progressive and experimental adjustments.12 This emphasis placed on vulnerability, whose validity is not being called into question as such here, and the analogy which is drawn between physical vulnerability and constitutional vulnerability, leave a certain number of elements on the nature of the harm threatening the person expecting recognition unclarified, as I shall seek to show in this article (I). At the same time, it fails to address the nature of the relationship of recognition, omitting from consideration the exercise of power and the mechanisms inherent to this relationship (II). These omissions, as I will show, cause a particular dimension of recognition-driven struggles to be neglected, a dimension which I will refer to as the politics of exit (III). I. Not To Be Misrecognized, but by Whom? The vanishing point of the reasoning I have sought to highlight in the introduction of this paper, I believe, is the fact that the vulnerability inherent in the concept of recognition results from the need to constitute the other as an authority in order to be recognized. While in the case of physical security becoming a right – where the aim was to banish the specter of bloodthirsty bandits invading people's home unbeknownst to their victims, to rape or kill – the crime of denying recognition cannot be inflicted without the victim being aware. Allow me to explain my point with the help of an example that looks at the question from the other way around, borrowed from Freaks, the cult film directed by Tod Browning in 1932 about strangely shaped “freaks” of the Barnum circus. The key scene of the film comes after the wedding ceremony of the beautiful trapeze artist of the troupe, Cleopatra, with Hans, a dwarf she has married for the fortune he has inherited. During the banquet at which the entire cast of “monsters” is assembled, presented by the narrator as a group invested with a strong identity and sense of solidarity, one of them gets up on the table, takes hold of a glass, and approaches the young woman chanting a short refrain, “Gobble-Gobble, we accept her, we accept her! One of us! One of us!”13 This phrase of recognition, taken up in chorus by the monstrous assembly, brings a devastating reaction from the completely drunk trapeze artist: she breaks into hysterical laughter. This is the turning point of the film: Hans finally becomes aware of his young wife's intentions and falls ill. What this scene clearly shows is that for he who demands or expects recognition, not just any kind of recognition will do. Some providers of recognition count more than others. Their social status or the cultural models of a given society render some providers more indispensable than others, just as some providers’ approval leaves indifferent or, as in the present case, can give rise to rejection. In other words, it is the person who demands recognition who transforms the other into an instance of recognition by granting legitimacy to the forthcoming act of recognition or misrecognition. Even the elementary recognition expressed on the level of discourse attests to the validity of this principle. This is the aspect of recognition, embedded in discourse, which Habermas focuses on, and according to which all that is recognized is the person's status as a subject capable of replying, judging, and criticizing.14 In discussion, a reciprocal constitution of autonomous and responsible subjects occurs through the simple fact of raising and defending claims to validity, submitting them to the judgment of the other and addressing the other with the assumption that he can reply, either in approval or with criticism. This form of recognition, given automatically through simple initiation or in the continuation of a dialogue, provides us with perhaps the greatest number of examples of refusal to consecrate a possible instance of recognition, of refusal to place oneself in the position of the person who could be denied a response: innumerable daily cases of non-response, of withdrawal or abstention from an interaction which would both provide recognition and require it, expecting a response; or more political cases of the refusal to sit down at a negotiating table with an organization, a given group (for example by branding them as terrorists). However, while some providers count more than others and are invested with more expectations than others, it is not – except perhaps in the sphere of affective recognition, to borrow Honneth's typology – stubbornness, passion or excessive vanity which makes people aspire to this particular recognition and not another. Similarly, there is no question here of speaking of strategically “choosing” authorities; one does not change instances of recognition as one changes projects or tactics because the previous one didn't work, until one attains the desired success, if only because change is costly, mentally and socially. I will come back to this point in the third part of this paper. The options are limited precisely as a consequence of “institutionalized patterns of cultural value,” as Nancy Fraser would put it. In other words, certain instances are collectively designated, or socially polarized. First of all, there exist cases in which the instance is presented and accepted as the only possible one, thanks to ideological mystification in the form of persuasion and influence. This is, for example, the case of recognition-based management techniques, and of the procedures which Axel Honneth terms “ideologies of recognition,” which “ensure the motivational willingness to fulfill certain tasks and duties without resistance.”15 This extends to and includes the systems of domination, which completely saturate someone's horizon of evaluation through inducement, mobilization of bias and control. Nonetheless, more subtle constraints define all relations of recognition. The desire or need for recognition should not be imagined as a simple straight line which joins subject and object (i.e. the recognition of the instance ordered as such). The person who demands recognition can and does only claim a restricted number of statuses and qualities, from a limited number of instances, limited by reasons rooted in social practices. The “choice” of the instance is also restricted by history, the forward march of time, or, as Wendy Brown puts it, “the constant effects of what has already been made, including ourselves.”16 Even the highly stylized episode borrowed from Freaks which served as our starting point is written into a historical context: that of the Darwinian will to show the diversity of the human species in its races and forms,17 and the rise of the freak show as a type of entertainment. This history makes Hans’ deformed friends quite improbable instances of recognition. In other words, history forges what appears as obvious, like the instance of whiteness for Blacks as lamented by Frantz Fanon: “There is a fact: White men consider themselves superior to black men. There is another fact: Black men want to prove to white men, at all costs, the richness of their thought, the equal value of their intellect.”18 And the very particular place held by the State as the addressee of most claims for recognition in our complex contemporary societies is only the most trivial example of this process of designating the instance through sedimentation. Even the time inherent in the relationship of recognition between two protagonists imposes its force, defining the passage from an expectation to a demand for recognition, confirming an instance, or making it necessary to shift to another scale. The “choice” of the instance is also socially organized in the sense that generally it only refers to already available models and roles. One could add to the mechanisms which limit the number of possibilities the one which René Girard19 detects in the characters of Proust, Stendhal and Dostoevsky: mediation by a third party, whose desire is copied. It is precisely the other's desire that renders the object desirable. In other words, one cannot dismiss the inherent force of the fact that the desire for recognition from this particular instance, and not another, is also a desire according to the other which purports to be desire according to oneself. This should not simply be seen as evidence of a sort of social vanity; mediation is part of the normal and normalized workings of a society, which no one is exempt from. Historically and socially constituted, the obvious instances are not evenly distributed or universally shared in a given society. As a consequence of “institutionalized patterns of cultural value in whose construction those in need of recognition have not equally participated,”20 the way in which relations of recognition are ordered is socially differentiated. This is something that Appiah's notion of “scripts” could account for, scripts being defined as “narratives that people can use in shaping their projects and in telling their life stories.”21 Provided by collective identities, these scripts explain that the natural or obvious instances of recognition differ from one group to the next. This is why Tod Browning's trapeze artist, although herself a marginal figure and probable object of misrecognition, if only in the form of the negation of the value of a lifestyle excessively linked to the body, can do without and even express scorn for the recognition of the Freaks. In this extremely constrained space, the fact remains that it is up to the person claiming recognition to activate the instance, by admitting its legitimacy. The person who takes the risk of making an act of “recognition,” despite not being accepted as a competent instance by a subject placing himself in a position of request, would not be capable of producing the slightest effect of recognition; he would merely be the author of a more or less coherent speech act that would be lost in the void. But then, once this legitimacy is bestowed by the person expecting recognition upon a given instance, a form of power emerges, immanent to the relationship of recognition. II. A Fresh Look at an Inevitable Correlate of Recognition: Power The existence of a power to which the one who claims recognition is subject is inherent in the act of recognition. There is always such a power, even when he who recognizes, recognizes exactly and unreservedly the claim being addressed to him. He can refuse to grant recognition. It is therefore a power limited to this possibility. It is not defined by the ability to obtain something from he who is subjected to it; it is not verified by the possibility of ensuring obedience, it doesn't even need the intentionality of its holder to emerge. It is simply the other face of vulnerability, a power to strike, to damage the other's ability to develop a positive relationship to himself. It is power in the crudest sense, that one party is at the mercy of the other. At the mercy of a refusal, a denial, whether by action or by omission, but also of an inappropriate recognition, of a misinterpretation of the call for recognition, even of a non-perception of this call. Nonetheless, this is not a case of subjectivation, in the sense where the very creation of the subject is considered as contemporary to and conditioned by an act of subjection. Admittedly, it seems difficult to deny the idea, notably defended by Judith Butler and Patchen Markell, that the act of recognition is a performative act, if one grants that the meaning of a request for recognition is: I need you to recognize me as a human being (or a being different from you). Without your recognition, I cannot become this being. Not only do I require you to acknowledge that I am this being (otherwise it would simply be a cognitive victory), but only you can make it true; this is precisely the reason I am forced to formulate this claim. The act of recognition thus creates the status, the definition, or the self it recognizes. And this creation is the act of the party granting recognition. But if one pays closer attention to Austin's concept of the performative act, one sees that the speech act is not self-sufficient: the uttering of the words is the leading incident in the performance of the act, but it is far from being the sole thing necessary if the act is to be deemed to have been performed. “Speaking generally, it is always necessary that the circumstances in which the words are uttered should be in some way, or ways, appropriate, and it is very commonly necessary that either the speaker himself or other persons should also perform certain other actions, whether ‘physical’ or ‘mental’ actions or even acts of uttering further words. Thus, for naming the ship, it is essential that I should be the person appointed to name her, for (Christian) marrying, it is essential that I should not be already married with a wife living, sane and undivorced, and so on: for a bet to have been made, it is generally necessary for the offer of the bet to have been accepted by a taker (who must have done something, such as to say ‘Done’).”22 Austin envisaged the performative act as assuming both conventions and in some way the agreement and participation of persons other than the speaker; the act of granting recognition is limited the same way. In other words, the performative act of recognition limits our room for maneuver, but the speaker himself is constrained by circumstances. One cannot attribute just any identity or characteristic, even if it is positive; the recognizing party cannot rely on its imagination alone: if it does so, the performative act is destined to fail. Not just anything can be attributed as an ability or a status,23 and the party that recognizes is limited in its performative power by existing and/or constraining models and reasons, and from that point of view, is subject to the same constraints as the party claiming recognition. Furthermore, to be successful, the act of recognition must, at least partially, encounter a claim. In other words, in transforming the other into an authority, I recognize his right to inflict upon me a harm that will make it impossible for me to nurture respect for myself, but I am the one who makes this first movement. This is paradoxically why interaction remains possible. By highlighting the role of the party with the expectation of recognition in the constitution of the relationship of recognition and power, my aim is obviously not to assign the responsibility of the harm to the party that suffers this harm. Rather it is to remind what Foucault, and after him, Iris Marion Young, pointed out, namely that power is not the possession or attribute of individuals, “power is a relation rather than a thing.”24 Indeed, while the accumulation by an individual, an institution or a group of a “capital of authority”– to borrow and subvert a Bourdieuian concept – makes their acceptance as providers of recognition more probable, contrary to what Bourdieu would argue, it is not in this accumulation that power resides in fine. It only exists in a relationship, being immanent to the latter, and emerges from the acceptance by one of the two partners of the legitimacy of the other's judgment. Correspondingly, I wish to account for the fact that it is precisely because it is involved in the relationship of power that the party expecting recognition can modify, impair and overthrow it. The central importance which Hegelian theories of recognition attribute to the motif of vulnerability and the metaphor of the wound – articulated with an attempt to theorize a non-utilitarian conflictuality in which the struggle derives from moral motives, as well as with the strong normativity attributed to the idea of struggle for recognition (none of these ideas I seek to call into question here) – have ended up placing the subject in a position of radical outsideness in relation to power. He who demands recognition can be nothing more than prey to a power. Furthermore, this power is generally only considered in pathological terms and/or in terms of domination.25 Yet this tendency is not as harmless as it would seem at first glance: he who expects recognition is placed in a position of reproach to power26 and is consequently made its clear antinomy. In other words, he sees himself being denied the possibility of operating within the “matrix of power,” as Judith Butler would put it. If we cannot extract ourselves from relations of recognition, and if the latter are always doubled by relations of power, the solution cannot be to exclude power from any normative reflection. In taking into consideration the Foucaldian idea of power according to which “a power relationship can only be articulated on the basis of two elements which are each indispensable if it is really to be a power: that “the other” (the one over whom power is exercised) be thoroughly recognized and maintained to the very end as a person who acts; and that, faced with a relationship of power, a whole field of responses, reactions, results, and possible inventions may open up,”27 it is, in contrast, possible to identify a lever that the party claiming recognition can play on. In this perspective, what the politics of recognition, understood as a specific way of elaborating and championing political claims, means should be re-formulated, or at very least extended. III. A Few Political Implications: The Politics of Exit If vulnerability is inherent in creatures individuated only through socialization, while at the same time I am the one who transforms the other into an instance and a source of recognition, the struggle for a shield of rights that would protect my integrity only constitutes one part of the topography of struggles for recognition, of their form, and their finalities. This is the case, if for the mere fact that I only suffer harm if I have participated in the institution of the instance of recognition, or approved or confirmed it. These conditions render recourse to such rights unlikely in many cases of denial. Here, it might seem that my analysis is concluding as a plea in favor of theories of empowerment. However, the concept of empowerment suggests that the solution is to be found by the subject suffering misrecognition in his own resources to develop self-esteem, in his inherent ability to constitute himself outside of and against the mechanisms of power. This concept is therefore in flagrant contradiction with the intersubjective presuppositions that are the particularity and force of the theory of recognition. Because if we had such resources available to escape from contempt, we would not even find ourselves in a position which required us to desperately seek recognition, and the problem of misrecognition would then be limited to a “simple lack of respect,” to rephrase the quote from Taylor above. **Philip Pettit arrives at a conclusion of a somewhat different type, at the end of a theoretical development that is not without bearing certain similarities with my own.**28 Indeed**, he defends a conception of domination as “defenseless susceptibility to interference” liable “to inflict a certain damage” that is close to my own conception of the power inherent to constitutive vulnerability,** even if this interference is not considered in Pettit's work in terms of humiliation, discrimination, contempt and disqualification. More precisely, **Pettit regards an agent as dominating another if he is able to interfere arbitrarily in his choices and actions, whether the interference is effective or not** – a master can be benevolent to the point of letting his slaves act without interference. Similarly, as I already said, the power specific to whom a request for recognition is addressed stems from the fact that he can always refuse to answer it. **Pettit then deduces a concept of non-domination as a form of power, as a reciprocal power,29 which refers to a person's ability to control his or her own destiny but which does not refuse interference. Such a notion implies a form of positivity, which distinguishes it clearly from negative freedom and the idea of non-interference. In doing so, it seems to allow an idea of insurmountable unfulfilment and openendedness, considered as acceptable, or even desirable, and which it would be possible to articulate on the premises of recognition.**

#### 1. Devolves to non-domination. It is the primary moral good no matter what the Other values, that’s Pettit 99.

#### 2. They can’t account for value tradeoffs. There’s no way to weigh between the Other and the other Other and another other Other’s brother’s mother.

#### 3. Every agent has to value freedom as a necessary good, that’s Gewirth 84. That doesn’t totalize the Other since the Other is an agent, and freedom is necessary for agency.

#### 4. The standard is vague and self-defeating. If we can’t know the Other, we can’t know what counts as Otherness.

#### 5. The alternative is worse; abject poverty is a far worse material hindrance to the Other.

#### 6. TURN—Living wage is key to letting the Other choose for themselves because it solves bargaining power, that’s Gupta 15.

#### 7. Non-unique. Status quo minimum wage links just as hard.

#### 8. No link; the aff doesn’t force the Other to take a job or spend money. If they really want low wages, they could just shred their paycheck.

1. Jerry Waltman (taught political science at the University of Southern Mississippi for 25 years; in 15 of those he participated in the British Studies Program.  He currently holds an endowed professorship in political science at Baylor University, where he teaches British politics and comparative public law.  He received his Ph.D. from Indiana University, and is the author of eight books and numerous articles in academic journals on both British and American politics.  In addition to his years spent on the British Studies Program, he has traveled and taught in the UK on many occasions). “Civic Republicanism, The Basic Income Guarantee, and the Living Wage.” USBIG Discussion Paper. No. 25, March 2002. [↑](#footnote-ref-1)
2. Hardin, Russell (Helen Gould Shepard Professor in the Social Sciences @ NYU). May 1990. Morality within the Limits of Reason. University Of Chicago Press. pp. 4. ISBN 978-0226316208. [↑](#footnote-ref-2)
3. Vbriefly database. “LD Side Bias.” 2015. 3177 aff wins versus 3737 neg wins over all octos and quarters bids this season. [↑](#footnote-ref-3)
4. Tabroom. Tournament of Champions Results. April 27 2015 (today). Here’s a spread sheet with round-by-round aff/neg win breakdowns: https://dl.dropboxusercontent.com/u/41613883/Side%20Bias%20TOC%202015%20--%20JN.xlsx [↑](#footnote-ref-4)
5. Derek Parfit, “Innumerate Ethics,” *Philosophy and Public Affairs* 7 (1978). [↑](#footnote-ref-5)